AGENDA

BOARD OF MAYOR AND ALDERMEN

September 6, 2005

7:30 PM Aldermanic Chambers City Hall (3rd Floor)

- 1. Mayor Baines calls the meeting to order.
- 2. The Clerk calls the roll.
- 3. Recognition of contributors to the Manchester Art Fund.
- 4. Announcement by Peter Telge of the Fall Charity Festival scheduled for Saturday, September 24, 2005 at Arms Park to benefit the Special Olympics, Kristen's Gift, Make-A-Wish Foundation and the Alzheimer's Association.
- 5. Discussion with Heritage United Way regarding request for use of City Seal on community needs assessment.
- 6. Update and 6-month comparison of the number of daily visits over the prior year of 2004 of the William B. Cashin Senior Activity Center's first year submitted by Barbara Vigneault, Elderly Services Director.

CONSENT AGENDA

7. Mayor Baines advises if you desire to remove any of the following items from the Consent Agenda, please so indicate. If none of the items are to be removed, one motion only will be taken at the conclusion of the presentation.

Ratify and Confirm Polls Conducted

- A. On August 17, 2005 approving changing time of the public hearing regarding a proposed amendment to the Manchester City Charter resulting for a voter petition initiative scheduled for September 6, 2005 from 5:00 PM to 5:30 PM.
 - (Aldermen Roy, Gatsas, Guinta, Sysyn, Osborne, Porter, Lopez, Shea, DeVries, Garrity, Smith, Thibault and Forest voted yea. Alderman O'Neil unavailable.)
- **B.** On August 25, 2005 approving a leave of absence without pay and benefits for Francesco DiGirolamo, part-time security officer. (*Unanimous vote*)
- C. On August 29, 2005 approving a Special Primary Election on Tuesday, November 8, 2005 for the District 10 State Representative seat vacated by William K. Clayton. (Unanimous vote)

Approve under supervision of the Department of Highways

PSNH Pole Petition #11-1077 located on Union Street; PSNH Pole Petition #11-1078 located on Lake Shore and Candia Roads; PSNH Pole Petition #11-1079 located on Candia Road; PSNH Pole Petition #11-1080 located on Massabesic Street; and PSNH Pole Petition #11-1081 located on Brown Avenue.

Informational – to be Received and Filed

- E. Minutes of the Mayor's Utility Coordinating Committee meetings held on July 20, 2005 and August 17, 2005.
- F. Minutes of the MTA commission meetings held on June 28, 2005 and July 26, 2005 and the Financial and Ridership Reports for the months of June and July 2005.

REFERRALS TO COMMITTEES

COMMITTEE ON BILLS ON SECOND READING

G. Ordinances:

"An Ordinance amending the Ordinances of the City of Manchester by adding a new Section 32.104 Department of Senior Services."

"An Ordinance amending the Ordinances of the City of Manchester by amending Sections 32.105, 32.106, 32.107, 32.108, 32.109 and 32.110 substituting language of 'Senior' for 'Elderly'."

REPORTS OF COMMITTEES

COMMITTEE ON BILLS ON SECOND READING

H. Recommending that Ordinances:

"Amending Chapter 30: City Officials and Employees of the Code of Ordinances of the City of Manchester by adding §30.49 Office of Independent City Auditor and §30.50 Duties of Independent City Auditor."

"Amending Sections 36.15 Issuance of Warrant for Collection; Notice to City Auditor and 36.17 Abatement Before Payment of the Code of Ordinances of the City of Manchester by replacing the term City Auditor with the term Independent City Auditor and Finance Officer."

"Amending Section 36.16 Records and Reports of Abatements, 36.18 Abatement After Payment, and 36.35 Special Account for Taxes and Assessments of the Code of Ordinances of the City of Manchester by replacing the term City Auditor with the term Finance Officer."

ought to pass. (Unanimous vote)

4

I. Recommending that Ordinance:

"Amending Chapter 32, Conservation Commission, Section 32.092 Composition; Terms, of the Code of Ordinances of the City of Manchester."

ought to pass. (Unanimous vote)

J. Recommending that Ordinance:

"Amending Section 33.025 (Community Health Nurse) of the Code of Ordinances of the City of Manchester."

ought to pass. (Unanimous vote)

K. Recommending that Ordinance:

"Amending the Code of Ordinances of the City of Manchester by adding a new Chapter 54: Storm Water to Title V: Public Works."

ought to pass, and further that the ordinance be referred to a public hearing to be held on Monday, September 26 at 5:30 PM in the Aldermanic Chambers.

(Unanimous vote)

L. Recommending that Ordinance:

"Amending Chapter 70: Motor Vehicles and Traffic of the Code of Ordinances of the City of Manchester by amending Section 70.40 Towing by increasing the towing fees."

ought to pass. (Unanimous vote)

M. Recommending that Ordinance:

"Amending the Code of Ordinances of the City of Manchester by creating a new section within Chapter 111: Amusements establishing regulations for noise activities conducted in outdoor concert venues throughout the city and inserting new penalties in Section 111.99: Penalty to enforce these regulations."

ought to pass and layover. (Unanimous vote)

N. Recommending that Ordinance:

"Amending Chapter 115: Solicitations, Sales, Peddlers, and Fairs of the Code of Ordinances of the City of Manchester by inserting new definitions and application requirements."

ought to pass. (Unanimous vote)

O. Recommending that Ordinance:

"Authorizing the Mayor to Dispose of Certain Tax Deeded Property Known as West Haven Road, Map 0922/Lot 0039-A."

ought to pass. (Unanimous vote)

COMMITTEE ON JOINT SCHOOL BUILDINGS

- P. Recommending that the City and School District seek reimbursement for damages that occurred at Central High School if it is found that said damage was due to the negligence of any third party subject to Board of Mayor and Aldermen and School Board approval.

 (Unanimous vote)
- Q. Advising that they have approved adding football lockers to the Memorial High School locker room with funding to come from the furniture, fixtures and equipment line item for the project. (Unanimous vote)

COMMITTEE ON LANDS AND BUILDINGS

- R. Recommending that the attached policy regarding the private use of the former Portsmouth Branch Railroad Right-of-Way be approved. (Aldermen Osborne, Porter and Thibault voted yea; Aldermen Roy and Gatsas voted nay.)
- S. Recommending that the Water Works Director be authorized to enter into an agreement with Anagnost Companies, Inc. and the Manchester Housing and Redevelopment Authority for the sale of 16+/- acres of property on Karatzas Avenue subject to the following conditions:
 - 1) that the Committee and the Board of Mayor and Aldermen find the property surplus to City needs;
 - 2) that the Committee receive reports for Planning, Tax Collector and Assessors as provided by law;
 - 3) that the Committee and the Board of Mayor and Aldermen agree on the purchase price; and
 - 4) that the proposed disposition of property provides for workforce housing and just cause is found to sell same to the aforementioned parties as is consistent with law.

(Aldermen Roy, Gatsas and Thibault voted yea; Aldermen Osborne and Porter voted nay.)

- T. Recommending that the Board of Mayor and Aldermen approve a proposal from J P Sercel Associates, Inc. to acquire and develop the French Hall property at Hackett Hill for \$1.3 million and authorize the Manchester Housing and Redevelopment Corporation to move forward with the sale. (Aldermen Roy, Porter and Thibault voted year; Aldermen Gatsas and Osborne voted nay.)
- U. Recommending that the Manchester Housing and Redevelopment Corporation be authorized to proceed with the acquisition of the Masters property located at 354 Hackett Hill Road at a negotiated price of \$275,000.00 (Unanimous vote)

COMMITTEE ON TRAFFIC/PUBLIC SAFETY

- V. Recommending that a request from Intown Manchester to allow free parking downtown on Wednesday, September 14, 2005 from 4:30 PM until 8 PM for their Taste of Downtown event be approved. (Unanimous vote)
- W. Advising that a request from Jane Beaulieu, Mill City Festival Director to place signs at the entrance to the City on I-293 south at the Amoskeag and Queen City Avenue exits, I-293 north at the Queen City Avenue and Granite Street exits, and on I-93 north and south exits at Hanover Street to announce the festival on September 10 & 11, 2005 has been granted and approved with the stipulation that For Manchester be responsible for the cost and erection of said signs and that it be under the direct supervision of the Highway Department. (Unanimous vote)
- X. Recommending that the agreement between the City of Manchester and Central Parking for the operation of the Victory Garage be extended through December 31, 2005.

 (Unanimous vote)
- Y. Recommending that regulations governing standing, stopping, parking and operations of vehicles be adopted and put into effect when duly advertised and posted.

LADIES AND GENTLEMEN, HAVING READ THE CONSENT AGENDA, A MOTION WOULD BE IN ORDER THAT THE CONSENT AGENDA BE APPROVED.

8. Nominations to be presented by Mayor Baines, if available.

- 9. Confirmation of the nominations to the Police Commission as follows: Thomas J. Hammond to succeed James McDonald, Sr., term to expire September 15, 2008; and John Tenn to succeed himself, term to expire September 15, 2008.
 A motion is in order to confirm the nominations to the Police Commission as presented.
- Confirmation of the nominations to the Board of Recount as follows:
 Alderman William Shea to succeed himself, term to expire
 October 1, 2008;
 Peter McDonough to succeed himself, term to expire October 1, 2008; and
 Andre Martel to succeed himself, term to expire October 1, 2008.
 A motion is in order to confirm the nominations to the Board of Recount as presented.
- 11. Confirmation of the nominations to the Revolving Loan Fund as follows:
 Joseph G. Fremeau to succeed himself, term to expire August 1, 2008;
 Robert A. Greenwood to succeed himself, term to expire August 1, 2008;
 Peter R. Madden to succeed himself, term to expire August 1, 2008;
 James Bell to succeed himself, term to expire August 1, 2008;
 David B. Eaton to succeed himself, term to expire August 1, 2008; and
 Larry Allard to succeed Edward N. O'Brien, term to expire August 1, 2008.

 A motion is in order to confirm the nominations to the Revolving Loan
 Fund as presented.
- 12. Mayor Baines advises that a motion is in order to recess the regular meeting to allow the Committee on Finance to meet.
- 13. Mayor Baines calls the meeting back to order.

OTHER BUSINESS

14. Report(s) of the Committee on Finance, if available.

Ladies and Gentlemen, what is your pleasure?

- 15. Mayor Baines recommends the City of Manchester make a civic contribution to assist Easter Seals in flood related repairs to their facility. Ladies and Gentlemen, what is your pleasure?
- 16. Actions, if any, regarding proposed amendment to the Manchester City Charter resulting from a voter petition initiative providing for the insertion of Section 6.15 Limitation on Budget Increases.

 (Note: Related communication from State agencies advising that the proposed amendment cannot be placed on the ballot enclosed.)

 Ladies and Gentlemen, what is your pleasure?
- 17. Communication from Kevin Clougherty, Finance Officer, seeking the Board's authorization to transfer an amount not to exceed \$10,000.00 from Contingency to the Manchester Economic Development Office to cover costs of an appraisal and any other expenses associated with the possible sale of the Center of New Hampshire Garage from the City to Louis N. Vinios of JPA Corporation, Real Estate Development and Management. Ladies and Gentlemen, what is your pleasure?
- 18. Communication from Paul Martineau, Welfare Commissioner, requesting Board approval of an unpaid leave of absence for Patricia VanDenBerghe, such time already having been taken.
 - Ladies and Gentlemen, what is your pleasure?
- 19. Communication from Attorney James Merrill, on behalf of Manchester Downtown Visions, LLC, submitting a petition to revoke consent granted to Langer Place, Inc. relative to a site plan previously submitted in April 2005.
 - Ladies and Gentlemen, what is your pleasure?
- 20. Copy of a communication from Secretary of State, William M. Gardner, and Senior Assistant Attorney General, Orville B. Fitch, II, relative to the proposed Incompatibility of Office charter amendment.

 (Note: supplemental communication anticipated to be forwarded under separate cover.)

Ladies and Gentlemen, what is your pleasure?

21. NEW BUSINESS

- a) Communications
- b) Aldermen
- 22. If there is no further business, a motion is in order to adjourn.



CITY OF MANCHESTER

Elderly Services Department

151 Douglas Street
Manchester, New Hampshire 03102
(603) 624-6533 o Fax (603) 628-6159
Email: elderly@ci.manchester.nh.us



August 31, 2005

Board of Mayor and Aldermen One City Hall Plaza Manchester, NH 03101

Dear Members of the Board,

It is with pleasure that I report the achievements and success of the William B. Cashin Senior Activity Center. During this first year the increased participation in programs and activities has been outstanding. Attached is a 6-month comparison of the number of daily visits over the prior year of 2004.

The Center offers the ability to multi-program with the increase in the number of rooms. Some of the new activities are a computer lab offering classes and private computer time. There is a great interest in these classes covering topics such as beginners, intermediate word and excel, internet use, email, digital, art and card programs. The game room offers social interaction by providing a setting for cards, puzzles, pool, ping-pong, and mind aerobics. The exercise room sports space for mat exercise, aerobics, and beginner line-dancing. The craft room offers ceramic and pottery classes as well as water colors and plastic canvas. This room also doubles as a clinical screening area where we have held foot clinics sponsored by the VNA, and blood pressure clinics and a "Nurse is In time" by CMC's Great Day's ARNP. The multi-purpose room offers the opportunity to hold large events and host educational and informative presentations such as the State Plan on Aging, Social Security Forum, Foster Grandparent Inservices, Senior Companion Program inservices. The advanced line-dancing class is 80 strong and growing. The Center hosts Officer Jeff Bolduc weekly to provide a safe presence for those needing advice on protection and scams. We've held monthly socials that have served 250 people with luncheons and entertainment and dancing. The most recent is the "Blue Berry Festival" that offered a luncheon with blue berry bread, blue berry cobblers, blue berry décor, and blue berry music. The Resource Festival was held in May, which offered space to over 57 exhibitors providing information on services to seniors. There were over 300 people who came to find help with resources. The trips are popular with new destinations and promotion of an active life style. The fall apple-picking trip is an example.

St. Joseph Community Services has provided meals to the seniors at the Center. The number of daily meals has increased by 20 a day, helping seniors who come during the day to have a nutritious meal.

Coordination with agencies has been enhanced, cooperating to provide information and direct service with both the Elliot and CMC hospitals, Southern NH Services, Senior Companion Program services, MHRA, Pocketbook Therapy, Social Security Administration, NH Catholic Charities, Greater Manchester Mental Health, Easter Seals, Seniors Count, Manchester Police Department, and Manchester's Health Department.

Not only can seniors get formal support from agencies but also the Center provides a safe environment where they can offer support to each other. That information network is vital in helping seniors live a good quality life, independently, without isolation. The Center supports that information network of family, friends, and churches that provide 85% of care in keeping seniors independent. This fact cannot be understated. This alone saves costs and prevents crisis situations which can be expensive to government by premature institutionalization in the long run.

It is with great appreciation that I offer you this update, so you as a Board may take pride in your success, in making the William B. Cashin Senior Activity Center a reality for Manchester's seniors.

Respectfully submitted,

Barbara Vigneault, Director
Elderly Services Department

Attachment

William B. Cashin Senior Activity Center Attendance Statistics

	1229 591 638	
June	Visits 3790 2552 1238	
	1110 496 614	
May	Visits 2840 2306 534	
	938 391 547	Ž
April	Visits 2909 2372 537	
	1ndiv. 886 394 492	1)
March	Visits 2860 2316 544	•
	720 339	> >
Feb.	Visits 2446 1993 453) } !
	Indiv. 710 318	1
Jan.	Visits 2612 1860 1860 755	1 7 -
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	EGISTERED #'S 2005 EGISTERED #'S 2004	ココロク
	REGIST REGIST	よりにつこ
	Someower (Common or other property)	285



Board of Aldermen

Yeas and Nays

Upon	BMA POLL		
RE:	Change	time of PH	on 09/06/2005
	from 5	PM to 5:30	PM
		August 17	2005

Aldermen	Yea	Nay	Absent	Pass
Ward 1 - Roy	lu-			
Ward 2 - Gatsas	~			
Ward 3 - Guinta	~			
Ward 4 - Sysyn	1			
Ward 5 - Osborne	V			
Ward 6 - Porter	IV.			
At Large - O'Neil	-W	- L	1.0000	ه ادام
At Large - Lopez	1			
Ward 7 - Shea	i-			
Ward 8 - DeVries	V			
Ward 9 - Garrity				
Ward 10 - Smith				
Ward 11 - Thibault				
Ward 12 - Forest	./			
TOTAL:				





CITY OF MANCHESTER Office of the City Clerk



Leo R. Bernier City Clerk

Carol A. Johnson Deputy City Clerk

Paula L-Kang Deputy Clerk Administrative Services

Matthew Normand Deputy Clerk Licensing & Facilities

Patricia Piecuch Deputy Clerk Financial Administration

MEMORANDUM

To:

Board of Mayor and Aldermen

From:

Carol A. Johnson

Deputy City Clerk

Date:

August 22, 2005

Re:

Poll of Board of Mayor and Aldermen

Leave of Absence Francesco DiGirolamo

I am requesting a leave of absence without pay and benefits for our part-time security officer, Francesco DiGirolamo pursuant to Chapter 33.076 (B) Special Leave of the Code of Ordinances. Mr. DiGirolamo is currently out of the country tending to his ailing mother and we anticipate he will be out for a period of two months.

If anyone is in opposition in approving this request, please contact Tricia Piecuch at 624-6473 no later than 12:00 PM on Thursday, August 25th.



CITY OF MANCHESTER Office of the City Clerk



Leo R. Bernier City Clerk

Carol A. Johnson Deputy City Clerk

Paula L-Kang Deputy Clerk Administrative Services

Matthew Normand Deputy Clerk Licensing & Facilities

Patricia Piecuch Deputy Clerk Financial Administration

MEMORANDUM

To:

Board of Aldermen

From:

Leo R. Bernier

City Clerk

Date:

August 25, 2005

Re:

BMA Poll – Special Election

Recently, State Representative William K. Clayton of 91 Harrison Street (District 10, Ward 3) submitted his resignation. Therefore, it will be necessary that a Special Election be held to fill this position.

I respectfully request that the Board authorize a Special Primary Election be held concurrent with the Municipal General Election on Tuesday, November 8, 2005 from 6 AM until 7 PM in Ward 3 to fill this position. In doing so, the City would save approximately \$2,500 by holding the primary on this date.

There will, however, be a Special General Election in Ward 3 on Tuesday, December 13, 2005 with suggested polling hours being 11 AM until 7 PM.

Please note that the Governor and Executive Council will be voting on this item on September 21, 2005.

If anyone is in opposition to this request, please contact this Clerk's office no later than noon on Monday, August 29, 2005.



POLE LOCATION FORM NO. 1

July 14, 2005

To the Hon. Board of Mayor and Aldermen of the City of Manchester, New Hampshire:

PUBLIC SERVICE OF NEW HAMPSHIRE & VERIZON NEW ENGLAND, INC.

request a license to install and maintain underground conduits, cables and wires and to erect and maintain poles and structures with wires, cables, conduits and devices thereon, together with such sustaining, strengthening and protecting fixtures as may be necessary, along, across, and under the following public ways:

Re-license one (1) pole, 13/214S, on Union Street in the City of Manchester.

Wherefore we pray, that we be granted a license to install and maintain underground conduits, cables and wires and to erect and maintain poles and structures with wires, cables, conduits and devices thereon together with sustaining, strengthening and protecting fixtures as may be necessary, said underground conduits, poles and structures to be installed approximately in accordance with the plan filed herewith marked "POLE LOCATION PLAN, PUBLIC SERVICE OF NEW HAMPSHIRE and VERIZON NEW ENGLAND, INC.".

Plan No. 11-1077 Dated: June 30, 2005

PUBLIC SERVICE OF NEW HAMPSHIRE

Y: ______ Piotribution Droi

Erin Normand, Distribution Projects

VERIZON NEW ENGLAND, INC.



POLE LOCATION FORM NO. 1

August 8, 2005

To the Hon. Board of Mayor and Aldermen of the City of Manchester, New Hampshire:

PUBLIC SERVICE OF NEW HAMPSHIRE VERIZON NEW ENGLAND, INC.

request a license to install and maintain underground conduits, cables and wires and to erect and maintain poles and structures with wires, cables, conduits and devices thereon, together with such sustaining, strengthening and protecting fixtures as may be necessary, along, across, and under the following public

Re-License one (1) pole, 37/1 located on Lake Shore Road in the City of Manchester. Re-License one (1) pole, 15/118 located on Candia Road in the City of Manchester.

Wherefore we pray, that we be granted a license to install and maintain underground conduits, cables and wires and to erect and maintain poles and structures with wires, cables, conduits and devices thereon together with sustaining, strengthening and protecting fixtures as may be necessary, said underground conduits, poles and structures to be installed approximately in accordance with the plan filed herewith marked "POLE LOCATION PLAN, PUBLIC SERVICE OF NEW HAMPSHIRE and NEW ENGLAND TELEPHONE AND TELEGRAPH COMPANY".

Plan No. 11-1078 Dated: May 5, 2005

PUBLIC SERVICE OF NEW HAMPSHIRE

Erin Normand, Distribution Projects

VERIZON NEW ENGLAND, INC.



POLE LOCATION FORM NO. 1

August 9, 2005

To the Hon. Board of Mayor and Aldermen of the City of Manchester, New Hampshire:

PUBLIC SERVICE OF NEW HAMPSHIRE & VERIZON NEW ENGLAND, INC.

request a license to install and maintain underground conduits, cables and wires and to erect and maintain poles and structures with wires, cables, conduits and devices thereon, together with such sustaining, strengthening and protecting fixtures as may be necessary, along, across, and under the following public ways:

Re-License eight (8) poles, 15/81,72,50,49,48,61S,61 and 60 on Candia Road in the City of Manchester.

License five (5) poles 15/52Y,48S,64S,63Y and 59S on Candia Road in the City of Manchester.

Wherefore we pray, that we be granted a license to install and maintain underground conduits, cables and wires and to erect and maintain poles and structures with wires, cables, conduits and devices thereon together with sustaining, strengthening and protecting fixtures as may be necessary, said underground conduits, poles and structures to be installed approximately in accordance with the plan filed herewith marked "POLE LOCATION PLAN, PUBLIC SERVICE OF NEW HAMPSHIRE and NEW ENGLAND TELEPHONE AND TELEGRAPH COMPANY".

Plan No. 11-1079 Dated: June 17, 2002

PUBLIC SERVICE OF NEW HAMPSHIRE

Erin Normand, Distribution Projects

VERIZOM NEW ENGLAND, INC.

POLE LOCATION FORM NO. 1

August 9, 2005

To the Hon. Board of Mayor and Aldermen of the City of Manchester, New Hampshire:

PUBLIC SERVICE OF NEW HAMPSHIRE & VERIZON NEW ENGLAND, INC.

request a license to install and maintain underground conduits, cables and wires and to erect and maintain poles and structures with wires, cables, conduits and devices thereon, together with such sustaining, strengthening and protecting fixtures as may be necessary, along, across, and under the following public ways:

Re-License one (1) pole 34/37 on Massabesic Street in the City of Manchester.

Wherefore we pray, that we be granted a license to install and maintain underground conduits, cables and wires and to erect and maintain poles and structures with wires, cables, conduits and devices thereon together with sustaining, strengthening and protecting fixtures as may be necessary, said underground conduits, poles and structures to be installed approximately in accordance with the plan filed herewith marked "POLE LOCATION PLAN, PUBLIC SERVICE OF NEW HAMPSHIRE and NEW ENGLAND TELEPHONE AND TELEGRAPH COMPANY".

Plan No. 11-1080 Dated: March 4, 2005

PUBLIC SERVICE OF NEW HAMPSHIRE

BY: ZVOMAA

Erin Normand, Distribution Projects

VERIZON NEW ENGLAND, INC.



POLE LOCATION FORM NO. 1

August 9, 2005

To the Hon. Board of Mayor and Aldermen of the City of Manchester, New Hampshire:

PUBLIC SERVICE OF NEW HAMPSHIRE & VERIZON NEW ENGLAND, INC.

request a license to install and maintain underground conduits, cables and wires and to erect and maintain poles and structures with wires, cables, conduits and devices thereon, together with such sustaining, strengthening and protecting fixtures as may be necessary, along, across, and under the following public ways:

License one (1) pole 3/264S on Brown Ave in the City of Manchester.

Wherefore we pray, that we be granted a license to install and maintain underground conduits, cables and wires and to erect and maintain poles and structures with wires, cables, conduits and devices thereon together with sustaining, strengthening and protecting fixtures as may be necessary, said underground conduits, poles and structures to be installed approximately in accordance with the plan filed herewith marked "POLE LOCATION PLAN, PUBLIC SERVICE OF NEW HAMPSHIRE and NEW ENGLAND TELEPHONE AND TELEGRAPH COMPANY".

Plan No. 11-1081

Dated: January 26, 2005

PUBLIC SERVICE OF NEW HAMPSHIRE

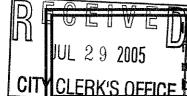
Frin Normand Distribution Projects

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VERIZON NEW ENGLAND, INC.

MAYOR'S UTILITY COORDINATING COMMITTEE

July 20, 2005



would be greatly appreciated if a representative from each Department or Utility attend the monthly neetings so that any essential information could best assist and/or work with affected parties.

The meeting was called to order by Peter Capano at 10:10 AM.

MANCHESTER HOUSING AUTHORITY

Ward

#3 89 Pine Street

- Looking to relocate construction division.

#12 French Hall

- Brooks Properties has decided not to go forward with acquisition of French Hall and we have notified our broker CB Richard Ellis to put the property back on the market. There has been some recent interest in the property and working with four prospective buyers.
- #4 MHRA is in a joint venture with Southern NH Services to construct 28 units of elderly housing on the vacant lot at #628 Hanover Street. The lot is formerly the Somascan property. \$2.6 million grant received from HUD. David White is the architect. Bids were opened, North Branch Construction awarded contract. Construction well underway.

#11 Brown School

- The Phase 1 Environmental Assessment and a structural survey have been completed. Variances have been approved. Applications were heard by Planning Board on June 23rd. Funding resubmitted in July.
- #2 Old Wellington Rd. Construction of apartment buildings well underway on Old Wellington Road. Building #1 fully occupied.

 Building #2 in July and Building #3 to follow.

#3 Jac-Pac

 City now owns property. Phase 1 and 2 environmental assessment are done. Access to Chinberg has been granted. Continuing to look for interim use proposals. CMC wants to lease 350 spaces for 18 months during construction of garage/office building.



STATE PROJECTS

- #6 Candia Road [Bypass 28-I-93]
- NH Department of Transportation has developed ROW plans. A two-year construction period is expected. Preconstruction and utilities meetings have been held. R.S. Audley has begun work.

#8 1-293

- Phase 3: Continental Paving has resumed the last phase of widening from S. Willow to I-93 split soon.
- **#11** Granite St./F.E. Everett Trnpk Imprv.
- Work on the NHDOT "B" contract is on going. This
 includes relocation of the existing interceptor sewer, the
 relocation of Allard Drive and construction of a new sound
 wall between the southbound on-ramp and Turner Street.

The NHDOT "C" contract bids were opened on June 28th 2005. Middlesex Corp. of Mass. was low bidder at \$28,687,750 which includes the City's work on Granite Street between Main St. and the river plus turnpike work.

The City's Granite St. Bridge Contract (west abutment to Commercial Street) is out to bid. Bids are due July 20, 2005. The remainder of the City's Granite Street work (Commercial St. to Elm St.) will be bid in May 2006.

#8 Airport Access

 The NH Department of Transportation's preliminary design is progressing. Some building demolition will take place this year. Construction is expected to begin in 2006.
 The project will be split into multiple contracts and construction is expected to be complete in 2009.

PLANNING/BUILDING

SUBDIVISIONS

- #12 Legacy Dr.
- 11 lot subdivision located between Straw Rd. and Goffstown Road, base pavement is down.
- #9 Brown Ave.
- Dunkin' Donuts has Planning Board approval to be located between Evans and On-The-Run.
- #8 Bryant Road
- Approved for both condos (56) and single family housing (34). Construction well underway.
- #12 Woodland Pond
- 77 lot subdivision for single-family homes approved with roads off Countryside Bldvd. Work has begun in Phase 2.
- #1 McLane Lane
- Seven unit planned development approved by Planning Board east end of existing road.

#12 Front St./Hackett

Hill Road

35-lot subdivision off Hackett Hill Rd. A portion of the #12 Cedar Ridge Woodland Pond Subdivision sold to Reggie Moreau. 4 new lots approved by Planning Board. Utility work #8 270 Stanton St. underway on one lot. #2 820 Wellington Rd. Walnut Terrace is under construction, eight-lot subdivision road named LaValle Lane. Multiple residential townhouses are under construction with #3 Chinburg two highrise towers to follow just south of Fisher Cats Stadium. SITE PLANS #10 394 2nd, St. Families in Transition rehab of mill building for housing and retail is well underway. Shopping center rehab. – 73,000 SF, new overall 171,000 #5 310 Wilson St. S.F. has Planning Board approval. Foundation work to (Vista Foods) come soon. Drainage and utility connections are underway. Retail building "B" is ready for occupancy. Valley St. offsite work is underway. #2 166 LaGrange Ave. - Islamic Society Mosque - 13,000 SF approved by Planning. - Manchester Place Apartment building and parking garage. #3 Bridge/Elm Sts. Parking garage being assembled. - Synagogue/Temple proposed at intersection of Bicentennial #1 2233 River Rd. Drive has Planning Board approval - 150,000 S.F. Furniture World about complete. Expected #8 1300 S.Porter St. occupancy in July. #12 Riverfront Dr. - One 5-unit condo and one 4-unit condo approved. Work has resumed. Rehabilitation underway, at Merrimack Street. PSNH needs #3 795 Elm St. to upgrade service to building, must dig in N. Merrimack St.

- 3 -

52 Unit, six building condos proposed.

- New Housing for residents at YDC. Work is underway, #1 River Road N. Branch is construction manager. - Three story, 10 unit building approved by Planning Board. #2 845 Mammoth Rd. - 10 lot planned development off Bicentennial Rd. (Mtn. View #1 Aspen Way Estates). Stabile Builders is the contractor and work is underway. #3 25 Brook St. & - One new 8-unit building and conversion of 25 more into 15-19 Temple Ct. housing approved by Planning Board. Work is underway. - New eighteen unit apartment building underway. #12 3 Country Club Dr. - 8-lot planned development (Newstead Way)immediately east #6 Bridge St. Extsn. of I-93 has been approved by Planning Board. Some utility work has begun. - Four houses to be built off Bridge Street Extension. #6 Hobbs Way - 36 Handicap access apartments approved by Planning #5 661 Bell St. Board. Work is underway. #9 915 S.Mammoth Rd. - Three self-storage units has Planning Board approval. Mill proposed to be converted to housing. #7 Maple/Silver Sts. - The Pointe Apartments, 68 units - work is well underway. #12 55 Riverfront Dr. - Hilton Hotel "Garden View" 156 room hotel under #3 25 Line Dr. construction. Summit Pkg. proposing to move to north end of Gay St. **#8** 400 Gay St. and expand building. #6 Cohas Brook 31 Unit planned development. Work is underway. Estates Six unit planned development approved. **#2** 978 Mammoth Rd. Proposal for new medical office building, parking garage #11 CMC and walkway over McGregor St. is under review by the

- "The Boneyard" Restaurant approved by Planning

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Board.

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Cleaning and Lining Project (10,990')

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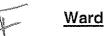
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 Design/Engineering funds were approved to develop plans for improvements identified in the 1997 study of this aquatic facility. Funding was appropriated in the the current CIP budget for the pool project, design is done. Bids due July 27th for combined pool & bathhouse plans. Begin construction in August.



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- Phase 2, contract awarded to Ted Bantis for \$620,000. Construction of soccer field/softball fields will be complete soon, tennis courts will be ready near the end of August.

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Dubois & King designing rehab of baseball/football fields. Work will be done soon.

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New clubhouse under construction, looking for occupancy early August.

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Construction Projects

#12 Front St. @ Goffstown Back Rd.

Project will add right turning lane on Front St. onto Goffstown Goffstown Road. Project nearing completion.

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the first year of the Department of Transportation's project.

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- Beech to Maple reconstruction is planned for late June.

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- So. Main North \$4.5 million dollar project underway.

CDM providing oversight.

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Work to commence on Kelley, Bremer and Mason Streets.

Low bidder R.D. Edmunds of Franklin, NH.

#2 Wellington Rd.

@ Old Wellington -

Road

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4-way to allow traffic from Old Wellington Road. Bids received, low bidder J. Parker & Daughters at \$224,000.

Work has begun.

#3/5 Grove/Bell Sts.

Reconstruct street from Pine to Beech Street including street

lights. Grove Street utilities underway.

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Sewer. Phase 3

- Pumping Station and sewers. Low bidder was R.D.

Edmunds @ \$1.3 million. Work is well underway.

Sidewalks

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Vinton Street to Weston Road. Lyman & Sons low bidder.

Work to begin in two weeks.

4 Ohio Avenue

Reconstruction coming from Hanover Street easterly.

MANCHESTER AIRPORT

#8 FAA Aircraft
Traffic Control

Tower (ATCT)

- Project underway. Construction Mgr. is Harvey

Construction Co., Inc. Completion due 2006.

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- Runway 6 reconstruction project under design by Hoyle,

Tanner and Associates. Project has been delayed until 2006 or 2007. Project will be combined with other projects

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Surface Parking Lot - New surface parking lot under design by McFarland-Johnson. Project located in Londonderry on the south side of Pettingill Rd. west of S. Harvey Road. Project scheduled for construction early fall 2005.

KEYSPAN ENERGY DELIVERY

#3 S. Commercial St. - Residential work to next week. Services to follow

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Contract #6

- Well under way.

#11 Allard Drive

- Work well underway.

PSNH

#1 YDC

- PSNH installing 29 poles on River Road from Eve St. to Ridge Road bringing 34.5 Kv service to site. Progressing well.

#3 Merrimack St.

- Need to upgrade service to rehabilitated building at #795 Elm

Street. Plans being evaluated.

#6 Old Cohas Ave.

Pole installation has begun.

1 YDC

- New main being installed - River Road to Cloyde St.

#3 Central St.

Union St. to Pine St. on sidewalk.

MANCHESTER TRAFFIC DEPARTMENT

#3/5 Union/Lake

- Reconstruct signals. N.E. Signals starting soon.

VERIZON

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Massabesic Circle to I-93. Cable relocation underway.

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NEXT MEETING: The next MUCC meeting has been scheduled for Wednesday, August 17th 2005 at 10: 00 AM in the

Conference Room, second floor, at the

Manchester Water Works.



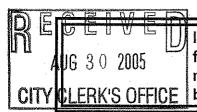
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	· ·		
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	Mr. Karl Franck	Building Dept.	624-6475
Х	Mr. Jay Davini	Manchester Highway Dept.	624-6444
Х	Mr. Guy Chabot	Manchester Water Works	624-6494
Х	Mr. Chris Blue	Fire Department	669-2256
	Mr. Steve Morin	Fire Department	669-2256
	Mr. Mike Venti	Airport Authority	624-6539 X318
	Mr. Jim Hoben	Traffic Department	624-6580
	Mr. Jody Rivard	Manchester Fire Dept.	669-2256
Х	Mr. Chuck DiPrema	Parks & Recreation Dept.	624-6565 X315
	Mr. Matt Wietecha	Verizon	645-2703
	Mr. Terry Harlacher	Planning Department	624-6450
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NOTE: NEW projects for the month will be italicized/bold printed.

MAYOR'S UTILITY COORDINATING COMMITTEE

August 17, 2005



It would be greatly appreciated if a representative from each Department or Utility attend the monthly meetings so that any essential information could best assist and/or work with affected parties.

The meeting was called to order by Peter Capano at 10:10 AM.

MANCHESTER HOUSING AUTHORITY

Ward

#3 89 Pine Street Looking to relocate construction division.

#12 French Hall

- Currently there are six proposals being considered for the development of French Hall.

#12 Hackett Hill

- Engineering proposals are being evaluated for engineering services for land planning, subdivision and infrastructure of the Northwest Industrial Park.

#4 MHRA is in a joint venture with Southern NH Services to construct 28 units of elderly housing on the vacant lot at #628 Hanover Street. The lot is formerly the Somascan property. \$2.6 million grant received from HUD. David White is the architect. Bids were opened, North Branch Construction awarded contract. Construction well underway.

#11 Brown School

 The Phase 1 Environmental Assessment and a structural survey have been completed. Variances have been approved. Application was heard by Planning Board on June 23rd. Request for funding was submitted in July.

#2 Old Wellington Rd. - Construction of apartment buildings well underway on

Old Wellington Road. Building #1 fully occupied. Building #2 by Sept. 1st and Building #3 later in September.

#3 Jac-Pac

- City now owns property. Phase 1 and 2 environmental assessment are done. Access to Chinberg has been granted. Continuing to look for interim use proposals. CMC will lease 350 parking spaces for 18 months during construction of garage/office building.



STATE PROJECTS

#6 Candia Road [Bypass 28-I-93] NH Department of Transportation has developed ROW plans. A two-year construction period is expected. R.S. Audley has begun work constructing drainage and dry sewer.

#8 1-293 Phase 3: Continental Paving has resumed the last phase of widening from S. Willow to I-93 split soon.

#11 Granite St./F.E. Everett Trnpk Imprv.

- Work on the NHDOT "B" contract is on going. This includes relocation of the existing interceptor sewer, the relocation of Allard Drive and construction of a new sound wall between the southbound on-ramp and Turner Street.

The NHDOT "C" contract bids were opened on June 28th 2005. Middlesex Corp. of Mass. was low bidder at \$28,687,750 which includes the City's work on Granite Street between Main St. and the river plus turnpike work.

The City's Granite St. Bridge Contract (west abutment to Commercial Street) is out to bid. Bids are due July 20, 2005. The remainder of the City's Granite Street work (Commercial St. to Elm St.) will be bid in May 2006.

#8 Airport Access

- The NH Department of Transportation's preliminary design is progressing. Some building demolition will take place this year. Construction is expected to begin in 2006. The project will be split into multiple contracts and construction is expected to be complete in 2009.

PLANNING/BUILDING

SUBDIVISIONS

#12 Legacy Dr.

11 lot subdivision located between Straw Rd. and Goffstown Road, base pavement is down.

#9 Brown Ave.

- Dunkin' Donuts has Planning Board approval to be located between Evans and On-The-Run.

#8 Bryant Road

- Approved for both condos (56) and single family housing (34). Construction well underway.

#12 Woodland Pond

- 77 lot subdivision for single-family homes approved with roads off Countryside Bldvd. Work has begun in Phase 2.

#1 McLane Lane

Seven unit planned development approved by Planning Board east end of existing road.

#12 Cedar Ridge	-	35-lot subdivision off Hackett Hill Rd. A portion of the Woodland Pond Subdivision sold to Reggie Moreau.
#8 270 Stanton St.	-	4 new lots approved by Planning Board. Utility work underway on one lot.
#2 820 Wellington Rd.	-	Walnut Terrace is under construction, eight-lot subdivision road named LaValle Lane.
#3 Chinburg	,	Multiple residential townhouses are under construction with two highrise towers to follow just south of Fisher Cats Stadium.
SITE PLANS		Statium.
#5 310 Wilson St. (Vista Foods)		Shopping center rehab. – 73,000 SF, new overall 171,000 S.F. has Planning Board approval. Foundation work to come soon. Drainage and utility connections are underway. Retail building "B" occupied.
#2 166 LaGrange Ave.	MA	Islamic Society Mosque – 13,000 SF approved by Planning.
#3 Bridge/Elm Sts.		Manchester Place Apartment building and parking garage. Parking garage being assembled.
#1 2233 River Rd.		Synagogue/Temple proposed at intersection of Bicentennial Drive has Planning Board approval
# 8 1300 S.Porter St.		50,000 S.F. Furniture World about complete. Expected occupancy in August.
#12 Riverfront Dr.		One 5-unit condo and one 4-unit condo approved. Vork has resumed.
#3 795 Elm St.		ehabilitation underway, at Merrimack Street. PSNH needs upgrade service to building, must dig in N. Merrimack St.
#12 Front St./Hackett Hill Road	- 52	2 Unit, six building condos proposed.
#6 25 Lakeside Dr.	· D	unkin'Donuts proposal heard by Planning Board.



#1 River Road

- New Housing for residents at YDC. Work is underway, N. Branch is construction manager. Occupancy is planned in January of 2006.

#2 845 Mammoth Rd.

- Three story, 10 unit building approved by Planning Board.

#1 Aspen Way

- 10 lot planned development off Bicentennial Rd. (Mtn. View Estates). Stabile Builders is the contractor and work is underway.

#3 25 Brook St. & 15-19 Temple Ct.

- One new 8-unit building and conversion of 25 more into housing approved by Planning Board. Work is underway.

#12 3 Country Club Dr.

- New eighteen unit apartment building underway.

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- 8-lot planned development (Newstead Way)immediately east of I-93 has been approved by Planning Board and has been progressing.

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- Four houses to be built off Bridge Street Extension.

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- Combination of handicap access apartments & townhouses proposed.

#9 915 S.Mammoth Rd. - Three self-storage units has Planning Board approval.

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- The Pointe Apartments, 68 units – work is well underway.

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- Hilton Hotel "Garden View" 156 room hotel under construction.

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- Summit Pkg. proposing to move to north end of Gay St. and expand building.

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31 Unit planned development. Work is underway.

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#11 CMC

Proposal for new medical office building, parking garage and walkway over McGregor St.

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		- 	- -

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MANCHESTER TRANSIT AUTHORITY

110 ELM STREET, MANCHESTER, NH 03101-2799 TELEPHONE (603) 623-8801 FAX (603) 626-4512



JOHN H. TRISCIANI, CHAIR DAVID F. JESPERSEN, VICE CHAIR JOSEPH J. DESELLE PETER ESCALERA MAUREEN A. NAGLE

DAVID SMITH EXECUTIVE DIRECTOR

August 31, 2005

Mr. Leo Bernier, City Clerk City of Manchester One City Hall Plaza Manchester, NH 03l01

Dear Leo,

The MTA Commissioners held a Commission Meeting on Tuesday, August 30, 2005. Enclosed are the approved Minutes of the June 28th and July 26th, 2005 Commission Meetings, and the Financial and Ridership Reports for the month of July 2005.

The next scheduled Commission Meeting will be Tuesday, September 27, 2005 at 5:00 PM.

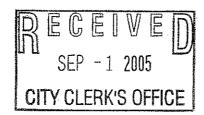
If you should have any questions, please feel free to contact me at extension 612.

Very truly yours,

David Smith Executive Director

DS:cr

Enclosures





110 ELM STREET, MANCHESTER, NH 03101-2799 TELEPHONE (603) 623-8801 FAX (603) 626-4512



JOHN H. TRISCIANI, CHAIR DAVID F. JESPERSEN, VICE CHAIR JULIE A. GUSTAFSON JOSEPH J. DESELLE PETER ESCALERA

DAVID SMITH EXECUTIVE DIRECTOR

Manchester Transit Authority

June 28, 2005 Commission Meeting

MEMBERS PRESENT:

Chairman John H. Trisciani

Vice Chairman David F. Jespersen Commissioner Julie A. Gustafson Commissioner Joseph J. Deselle

PERSONNEL PRESENT:

David Smith, Executive Director

Karyn Bennett, Assistant Executive Director William J. Cantwell, Supt. of Administration Evan P. Rosset, Operations Planning Manager

Paul Beauregard, Shop Manager

ABSENT:

Commissioner Peter Escalera (Excused Absence)

OTHERS PRESENT:

Robert Chernin, Chernin Insurance

Robert Allaire, Albert Risk Management Christina Kokinda, Albert Risk Management

1. a. Chairman TRISCIANI called the meeting to order at 5:12 PM.

The order of business was suspended to discuss Item 3. b. Insurance Renewal.

SMITH introduced Robert Chernin from Chernin Insurance, and Robert Allaire
and Christina Kokinda from Albert Risk Management. SMITH explained last
year Albert Risk Management did a formal bidding process on our auto and
liability insurance coverages and received two competitive qualified proposals
(Ferdinando Insurance and Chernin Insurance.) Based on price, the MTA
remained with Ferdinando Insurance last year. Since the insurance coverages
expire on June 30th, 2005, Albert Risk Management began working with
Ferdinando requesting a firm, written renewal quote by June 15th. In April, Albert

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Risk Management received a call from Bob Chernin, Chernin Insurance, expressing an interest in quoting this year. Mr. Chernin was informed by Albert Risk Management that MTA was going to remain with Ferdinando. When the June 15th deadline was approaching, Albert Risk Management contacted Ferdinando and were told they had not received a commitment from National Interstate, who are known for late submissions, but felt the price would be 40% higher (\$440,000) than last year. Albert Risk Management spoke to SMITH to review their options and agreed to go back and speak with Mr. Chernin. Mr. Chernin indicated he could produce an auto insurance proposal in that short amount of time.

Albert Risk Management stated since MTA had been a client with National Interstate for many years, it was appropriate to tell Ferdinando we would be obtaining another proposal. Albert Risk Management explained the MTA's options to Ferdinando and that was to speak to Mr. Chernin and commence a bidding process between those two carriers.

Shortly after the June 15th deadline, Ferdinando contacted Albert Risk Management indicating National Interstate had reduced their premium for the entire insurance package to \$392,225, but did not have it in writing. A new deadline of June 24th was set.

ALLAIRE said both parties proposed on the same terms and conditions and that it was a true level playing field. On June 24th he received the two proposals for auto and general liability. Ferdinando's price is \$327,908, and Chernin's price is \$312,062. ALLAIRE discussed the pros and cons of both proposals and although Chernin's proposal is 5% lower (\$14,000 - \$16,000) he and SMITH's overall

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recommendation is to continue coverage with Ferdinando because they have been a client for a long period and the dollars savings were not significant enough to risk a change of carriers and break that relationship. They commended Mr. Chernin on the good job he did in providing an auto and general liability proposal in such a short period. SMITH explained Mr. Chernin has since been able to secure proposals for the excess insurances and now has a full proposal package. Mr. Chernin requested permission to speak to the Board. He explained the quality of RLI Insurance, the carrier for the auto insurance, and the types of coverages he quoted. He stated this has not been a level playing field, that there was no fairness because he was called in only because Ferdinando's price was in excess of \$400,000. He was able to obtain an auto quote in 7 days for \$312,000 and was not asked to quote on the other coverages at that time, but did so in the last 24 hours. He said his overall quote for the total insurance package is significantly lower than Ferdinando's package, he feels Ferdinando lowered their quote when they found out another carrier was involved. He thanked the Board for their consideration of his proposal package. GUSTAFSON and JESPERSEN commented that the Chernin Agency's proposal appeared to offer significant savings and suggested it receive the same consideration given to the incumbent. The difference in the two proposals for all insurances was in excess of \$30,000. TRISCIANI recommended Albert Risk Management review Mr. Chernin's proposal and report to SMITH the following day so SMITH can do a telephone poll. SMITH explained this was not a formal bidding process and the reason we sought another proposal was because of the situation. JESPERSEN said Ferdinando put us in the situation to seek another price and asked if there was a



legitimate reason why Ferdinando did not respond to the June 15th request.

JESPERSEN recommended Albert Risk Management take a thorough look at the proposals to make sure there are no differences in coverages. Seconded by GUSTAFSON. All Commissioners in favor. SMITH stated when Albert Risk Management was unable to get a quote early they called SMITH to get permission to call Chernin. When Ferdinando found out we were seeking another quote they said they would get a better quote and felt ALLAIRE was jumping the gun.

CANTWELL stated with Chernins' complete insurance package presented this evening there is a \$30,000 to \$35,000 savings. Board will wait for SMITH's recommendation.

b. <u>Minutes of May 31, 2005 Commission Meeting.</u> JESPERSEN made a motion to approve the May 31, 2005 Commission Meeting Minutes as presented.
 Seconded by GUSTAFSON. All Commissioners in favor.

MANAGEMENT REPORTS

2. a. Financial Report for May 2005. GUSTAFSON made a motion to approve the May 2005 Financial Report. Seconded by DESELLE. CANTWELL stated that the August Financials would have budget numbers available. He will print out the ABS budget for June so Board Members can compare the June financials with the FY 2005 budget.

Transit Operation: CANTWELL reported transit revenue was \$255,776; \$20,606 (8.76%) more than budget. Total operating revenues were \$5,070 (24.61%) more than budget. Farebox income averaged \$3,213 per weekly deposit. CANTWELL explained the variances were farebox receipts, sale of fuel and maintenance services to the City, and bus advertising income.

Expenses were \$282,441; \$20,362 (7.77%) more than budget. Expenses tracked well with fuel cost being the major variance; \$14,000 over budget (\$10,000 was billed for City fueling.)

School Operation: School revenue was \$258,497; \$3,657 (1.39%) less than budget. School charter revenue was \$4,580 less than budget and \$5,800 less for the year. After reviewing June's athletics and fieldtrip billings, charter revenue will exceed the budget by \$5,000 this school year. Expenses were \$245,938; \$11,484 (4.90%) more than budget. CANTWELL stated expenses tracked well with the major variances being school driver labor and fuel costs.

CANTWELL explained the web site upgrade would go live in mid July. There will be employment information, StepSaver regulations, school bus route updates, individual transit route maps, and individuals will be able to download employment and StepSaver applications.

GUSTAFSON noticed the aged receivables have more detail. CANTWELL explained this is what an average receivables should look like and this is what the true aging was as of May 31st. Accounting Secretary Bridget Evarts has been working very hard with collections and Office of Student Services Barbara Gagne has been diligent seeking payment for unpaid charters.

All Commissioners in favor of approving May 2005 Financial Report.

b. Operations Reports for May 2005.

Transit Report: ROSSET explained the Airport route carried 976 passengers, does 4 trips per day, and averages 11.5 passengers per trip. The Pinard/Bremer route carried 1,107 passengers, does 12 trips per day, and averages 4 passengers per trip. These averages reflect why a Comprehensive Operational Analysis is so

important. TRISCIANI commented we are not moving many people for the baseball field, Verizon, and in particular any children's events at the Verizon.

ROSSET said we are trying to partner with businesses downtown and give them a schedule of what time the shuttle would be coming by their facility. BENNETT explained there would be something on the website that will update when the shuttle will be running. JESPERSEN questioned whether the electric head signs could flash "mtabus.org". ROSSET is currently working on a design for outside the buses. TRISCIANI suggested also advertising web address inside the buses. TRISCIANI was pleased that all but one fixed route had improved. JESPERSEN requested the report be broken down so the total percent change will reflect fixed routes without shuttle service.

Transit Statistics Report: ROSSET explained the revenue miles for paratransit service numbers are down because we improved the quality of service by adding an additional vehicle, but we are still carrying the same amount of people.

ROSSET said costs per revenue hour fluctuate each month due to monthly insurance, fuel and benefit costs. ROSSET said we had "missed" nine trips during the month. He explained a missed trip is anything over 15 minutes late.

Most of the missed trips are on Saturday because we don't have the capability of a setback. ROSSET said the collision numbers look high because of the way it is calculated. He takes the number of collisions and the number of miles and divides by 100,000 miles, the MTA only operates about 50,000 miles per month. He has added a new section on attendance. ROSSET is reporting school separately to give a more accurate picture of manpower. Everything is the same



he just separated the 3 divisions and added a few new items. JESPERSEN stated he is receiving favorable comments from our customers on the new buses.

Operations Report:

Transit: BENNETT reported the bus radio installation started in May. She will institute a radio-use policy when radio installation is completed. BENNETT explained on May 9th a representative from the Moore Center brought ten clients to our facility to get them exposed to public transit.

School: BENNETT explained department heads have been meeting with School District personnel to continue contract revisions. She reported ROSSET successfully completed the first round of route revisions for the 2005/2006 school year. During the year she and her staff have held meetings with Athletic Director Joe Raycraft and reported the MTA performed 420 charters during the month of May. She tabulated the number of trainees from September 2004 through May 2005 and the training staff trained and licensed 53 operators during that period. She commended Louise Gaudreau and her staff of trainers.

Maintenance Report: SMITH said now that the maintenance report is included in the statistics report there will no longer be a hard copy submitted by BEAUREGARD. SMITH commended the maintenance department on the great job painting the two StepSaver vans. TRISCIANI said they also did a good job making the grilles for the cook-out.

NEW BUSINESS

a. <u>Safety Committee Activation.</u> BENNETT reported on the Safety Committee that was formed with the assistance of a representative from Ferdinando

Insurance. They met to discuss the goals and objectives of this Committee. She

explained preventable and non preventable accidents are agreed upon between Union and Management. The Committee will also establish a policy for acceptable motor vehicle records based upon the number of violations both onduty and off-duty. JESPERSEN asked about moving violations in their personal vehicles. BENNETT stated the employee must let the employer know of any moving violations. SMITH explained we are required by the NH School Transportation Rules to pull drivers vehicle records once a year.

- b. Approving Insurance Renewal. See Item 1. a.
- c. <u>CMAQ Grant Application Process Due 7/31/05.</u> SMITH updated the Board on the status of the CMAQ grant application stating the Mayor is still interested in a downtown shuttle. He explained Concord Planning Commission's Technical Advisory Committee did a survey and found strong interest for transit in Allenstown and Pembroke. They are interested in pursuing transportation from Concord to Manchester that could service Allenstown, Pembroke, and Hooksett. There is strong interest in transportation between the Manchester Airport and the Seacoast area. SMITH explained any kind of regional transportation would be viewed highly on State and Federal levels. SMITH will keep the Board involved.
- d. <u>EPA Clean School Bus USA Grant Announcements.</u> SMITH explained we are a recipient of an EPA grant for retrofitting 30 school buses. This should have been funded last summer, but the State's process is very slow. There is \$7.5M nationwide in new grants with the same list of potential projects but we cannot be the grantee; just School Districts can make the grant applications. We have talked to the Manchester School District to make the grant application not only for their benefit but also for ours. One of the projects that would work well for us is the



idle reduction technology that would enable us from idling buses for a half hour in the morning during the winter. They are small heaters that warm the engine and mount on the frame of the bus. There is huge wear and tear on the engine and emissions when an engine is idling, plus the fuel savings. SMITH talked about a biodiesel conference he and ROSSET attended. Because of a tax credit biodiesel is becoming competitive with standard diesel fuel. It is significant to the environment and the operator. SMITH thinks the EPA grant would pay for the incremental cost of biodiesel against standard diesel. They heard a presentation by Keene's equipment manager. JESPERSEN said since we don't pay taxes how does the tax credit benefit us. SMITH said the distributor pays a business tax so they get the benefit and it encourages them to sell. It has been determined that there is less carbon detected in the school bus. JESPERSEN concerned about our engines still under warrantee if we converted to biodiesel. SMITH said this is becoming acceptable to the point that most manufacturers recommend 2%. A concern is fuel jelling in the winter. During the winter Keene uses an additive. JESPERSEN said if we switch to biodiesel do we need to install separate tanks. SMITH said the grant is to fund just the school buses; we would have to consider how to fund transit and fire trucks. ROSSET said the reason there is a premium is because not a lot of people use it. The more people use biodiesel; more suppliers will set up plants.

e. <u>First Transit Corporate Purchasing Agreement.</u> SMITH explained the contract agreement between MTA and First Transit provides for gain sharing and the MTA's use of First Transit's corporate purchasing agreements. We had



- purchases of about \$30,000 that incurred about \$2,000 in savings. An invoice was submitted from First Transit for \$544.02.
- f. Executive Director's Vacation Schedule. SMITH will be on vacation the weeks of July 11th and July 18th. BENNETT will be in charge while he is away.

OLD BUSINESS

- 4. a. MSD Athletics Department Proposal Coordinating Committee Meeting of

 June 22nd. SMITH said the School District received letters of interest from three

 vendors to perform fall athletic charter work. ROSSET is in the process of

 preparing a formal bid. SMITH said they already know our price because it is

 part of the school contract. JESPERSEN asked if the School District published

 their findings from Consultant Mark Walsh. SMITH explained Mr. Walsh

 detailed some of his findings before the School Board's Coordinating Committee,

 but will submit his final report at the end of October. SMITH said it was good to

 have a third party review. Mr. Walsh was very supportive in the transportation

 sense not only operationally, but also in our relationship with the School District.
 - b. School Contract Negotiations. SMITH discussed the recent draft contract proposal with the School District. At the School District's Coordination Committee Meeting, Consultant Mark Walsh recommended awarding the contract to the MTA. There are minor language changes, but there is one change they have added that SMITH recommended not accepting. The change the School District wants is if we don't perform a scheduled athletic charter pickup, they want us to pay for alternate transportation and incidental costs incurred. SMITH feels we should not take on liability for something they would do. TRISCIANI feels we should refuse that language and to let them know if they use a coach firm

like Spartan that the carrier should have the proper State certification for transporting students to a school event. SMITH does not mind any out of pocket expenses that are reasonable for us to pay, but feels we should not pay for alternative transportation. SMITH recommended the Board approve the contract but take out the alternative transportation language and replace that language with "out of pocket expenses incurred." JESPERSEN made a motion to approve the contract agreement between the MTA and School District for the period July 1, 2005 to June 30, 2006 with the language change as recommended by SMITH. Seconded by DESELLE. All Commissioners in favor. JESPERSEN questioned the extra buses available. SMITH said the contract specifies the MTA will maintain 10 extra buses for the purpose of breakdown protection and charter service. SMITH informed the Board we usually provide buses for four overlap charters but we asked them not to expect us to do more than four, so we now have that language written in the contract. JESPERSEN asked if ROSSET did the VersaTrans presentation for the School District. SMITH replied no. ROSSET said after a successful school startup and Consultant Mark Walsh finalizes his

c. <u>Transit Buses – Finalizing Gillig Bus Option.</u> SMITH stated at the last meeting the Board requested he pursue a purchase contract with Gillig, provided Gillig met all FTA requirements. He is about to get an updated Buy America Audit. SMITH recommended signing a contract and issue a purchase order for six buses. JESPERSEN generated discussion about adding accessories like radios and cup holders. JESPERSEN made a motion to purchase six buses as recommended by

report that may be the time to do the presentation

SMITH without accessories discussed. Seconded by DESELLE. All Commissioners in favor.

d. Status of Capital Projects:

- Radios ROSSET said transit radio installation is completed. Dispatch and maintenance stations are not set up yet. All transit radios need to be reprogrammed due to an error, but this is not a problem.
- Vans StepSaver vans went into service June 7th.
- School Buses ROSSET said three new school buses have arrived, and we are waiting for one additional bus.
- Bus Stop Signs ROSSET explained there is a minor problem with bus stop signs because they all say "No Parking." People are calling complaining about bus stop signs in front of their homes and they are upset they can no longer park in front of their houses. The Traffic Department had us remove the bottom lettering that says "No Parking" and is silk screening "Bus Stop" stickers to replace the "No Parking." JESPERSEN asked if there is a list being built. BENNETT replied a list is being built as the Traffic Department installs the signs.

OTHER BUSINESS

- 5. a. <u>City Fueling & Maintenance Repairs.</u> SMITH explained the Highway Department is taking over the fueling and maintenance of city Building Maintenance fleet vehicles.
 - b. <u>Date for Next Meeting.</u> Tuesday, July 26, 2005.

With no further business to come before the Board, DESELLE made a motion to adjourn the meeting at 7:40 PM. Seconded by GUSTAFSON. All Commissioners in favor.



School

June 2005

Manchester Transit Authority Income Statement School For the Twelve Months Ending June 30, 2005

	Current	Budget	YTD	YTD	YTD
				Budget	Net Change
Student Transportation					
Pupil Contract Manchester Skill Center Special Needs	\$198,479.40 8,935.00 10,292.40		\$1,928,048.81 143,919.10 102,924.00		\$198,479.40 8,935.00 10,292.40
Student Tickets	2,145.00		47,965.76		2,145.00
Total Student Transportation	219,851.80		2,222,857.67	<u>a, all, 83a</u>	219,851.80
School Charter					
Student Athletics Student Fieldtrips	8,557.00 49,636.50		122,799.25 154,603.00		8,557.00 49,636.50
Total School Charters	58,193.50		277,402.25	267, 000	58,193.50
Other Revenue					
Sale of Vehicles and Equipment Insurance Repair Reimbursement Interest Income Other Non-Tranp. Revenue	4,287.48 427.76		7,925.00 6,787.48 4,798.61 497.10		4,287.48 427.76
Total Other Revenue	4,715.24		20,008.19	1,200	4,715.24
Total Operational Income	282,760.54		2,520,268.11	2,480,03a	282,760.54
Expenses					
Labor					
School Operator Wages School Operator Overtime Wages Transit Operator Wages Transit Operator Overtime Wages Mechanic Wages Transp. Admin Wages Transp. Admin Overtime Wages Maint. Admin Wages General Admin Wages Gen. Admin Overtime Wages Payroll Transaction	61,923.30 2,087.44 24.64 7,171.63 11,742.75 86.23 3,468.82 4,244.71		855,325.96 48,376.28 988.03 11,637.71 103,451.29 85,091.67 5,001.63 37,283.82 44,268.20 56.87 114.32	815, 938 38,153	61,923.30 2,087.44 24.64 7,171.63 11,742.75 86.23 3,468.82 4,244.71
Total Labor	90,749.52		1,191,595.78	1,135,175	90,749.52
Fringe Benefits					
Health Insurance Expense Dental Insurance Expense FICA Expense Worker's Compensation School Operator Vacation Wages School Operator Holiday Wages School Uniform Allowance Maintenance Uniform Allowance Tool Allowance License Reimbursement	(295.96) (209.87) 6,762.97 3,022.00 733.00 7,415.40 224.97		2,655.23 (3,960.23) 85,712.43 34,116.00 7,691.50 22,360.50 1,052.77 455.97 632.00 1,624.00		(295.96) (209.87) 6,762.97 3,022.00 733.00 7,415.40 224.97
Burden Adjustment	12,130.73		137,880.79	159,799	12,130.73
Total Fringe Benefits	29,923.24		290,220.96	314, 209	29,923.24

Services

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Manchester Transit Authority Income Statement School For the Twelve Months Ending June 30, 2005

	Current	Budget	YTD	YTD	YTD
				Budget	Net Change
Management Consultant	\$25,642.99		\$152,719.66	142,500	\$25,642.99
Commissioner Expense	(8.30)		908.33	4/ = =0	(8.30)
Auditing Expense			7,938.00		
Legal Expense Service Bureau	5,294.66		9,665.23 24,336.43	18,000	5,294.66
Security Service	3,294.00		2,553.77	io, occ	46.20
Outside Advertising	TO.20		22,743.05	12,000	101
Driver and Criminal Record	39.00		5,691.67		39.00
Drug & Alcohol Testing			11,025.00	8,000	
Pre-Employment Medical	180.00		9,740.00	10,000	180.00 1,015.03
Janitorial Service and Supplies Bank Service Charges	1,015.03 72.50		7,066.89 145.00		72.50
Total Services	32,282.08		254,533.03	285,520	32,282.08
				00(-1-50	<i></i> ,,
Materials and Supplies					
Fuel Operations	12,292.62		159,414.97	62P,P11	12,292.62
Maintenance Parts	1,749.48		60,561.25	•	1,749.48
Tires Expense	355.32		11,159.97		355.32
Oil and Grease Maintenance Supplies	237.28 351.99		2,986.82 5,746.63		237.28 351.99
Body Shop Supplies	411.46		3,078.15		411.46
Hazardous Materials	57.99		931.05		57.99
Outside Parts and Labor			2,439.00		
Repairs-Building and Grounds			22,130.01		
Repairs-Shop Equipment	000 61		1,575.20		992.51
Repairs-Office Equipment Office Supplies	992.51 483.66		6,911.59 10,218.34		483.66
Transit Schedules and Tickets	+03.00		1,889.12		100.00
Total Materials and Supplies	16,932.31		289,042.10	239,225	16,932.31
Utilities					
Electricity	1,248.89		18,237.45		1,248.89
Natural Gas			8,760.48		
Telephone Water	484.82		6,347.52 1,280.43		484.82
Total Utilities	1,733.71		34,625.88	33,583	1,733.71
Insurance				3	
			* • • • • • • • • • • • • • • • • • • •		00.070.00
Public Liability Insurance Other Liability	22,273.00		267,276.00 10,320.56	M-10-14-14-14-14-14-14-14-14-14-14-14-14-14-	22,273.00
Total Insurance	22,273.00		277,596.56	278,876	22,273.00
Other Expenses					
Dues and Memberships			141.56		
Tolls and Parking	5.40		80.03		5.40
Training and Meetings	339.37		4,806.46		339.37
Grievance Expense	*****		496.57		20.000.00
Depreciation	20,000.00		240,000.00	255,950	20,000.00
Total Other Expenses	20,344.77		245,524.62		20,344.77
Total Expenses	214,238.63		2,583,138.93	2462,538	214,238.63
Net Income (Loss)	68,521.91		(62,870.82)	17,494	68,521.91
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Transit

June 2005



Manchester Transit Authority Income Statement Transit For the Twelve Months Ending June 30, 2005

	Current	Budget	YTD	YTD	YTD
				Budget	Net Change
Total Labor	\$118,776.76		\$1,227,908.03	1,285,387	\$118,776.76
Fringe Benefits					
Health Insurance Expense	33,295.01		381,964.30	387, 23a	33,295.01
Dental Insurance Expense	840.01		6,214.58	301,700	840.01
Life Insurance Expense	691.60		10,251.45		691.60
Pension Expense	4,410.00		68,266.43		4,410.00
FICA Expense	11,268.57		123,600.52		11,268.57
Worker's Compensation	4,754.00		50,442.28		4,754.00
Unemployment Compensation	720.00		5,724.00	**** 7 .</td <td>720.00</td>	720.00
Transit Operator Vacation Wages	4,695.00		55,851.12	77. 88G	4,695.00
Transit Operator Holiday Wages	4,258.80		54,399.59	34,007	4,258.80
Transit Operator Sick Wages Mechanic Vacation Wages	2,380.37		38,330.65	30,663	2,380.37
Mechanic Holiday Wages	1,666.00 1,471.04		20,900.51 13,271.44		1,666.00 1,471.04
Mechanic Sick Wages	849.52		12,470.78		849.52
Transp. Admin Vacation Wages	2,178.00		18,358.11		2,178.00
Transp. Admin Holiday Wages	868.32		4,049.34		868.32
Transp. Admin Sick Wages	559.04		6,941.30		559.04
Maint. Admin Vacation Wages	860.00		8,982.23		860.00
Maint. Admin Holiday Wages	341.36		2,040.94		341.36
Gen Admin. Vacation Wages	992.00		9,401.49		992.00
Gen. Admin Holiday Wages	789.86		2,840.50		789.86
Gen. Admin Sick Wages			1,132.28		
Transit Uniform Allowance	2,730.34		11,337.52		2,730.34
Maintenance Uniform Allowance			4,109.10		
Tool Allowance	140.00		668.00		
License Reimbursement Burden Adjustment	140.00 (12,130.73)		626.00 (137,880.79)	(159,801)	140.00 (12,130.73)
Total Fringe Benefits	68,628.11		774,293.67	711, 995	68,628.11
Services	,		,		
Management Consultant	25,643.02		153,263.67		25,643.02
Commissioner Expense	3.29		1,001.08		3.29
Auditing Expense			5,292,00		
Legal Expense	1 000 771		4,495.94		
Service Bureau	1,093.71		12,013.22		1,093.71
Security Service	50.05		1,536.70		50.05
Outside Advertising Driver and Criminal Record	886.16		6,243.16 1,043.07	,	886.16
Drug & Alcohol Testing	265.00		4,655.00		265.00
Pre-Employment Medical	205.00		975.00		205.00
Janitorial Service and Supplies	1,015.04		7,042.51		1,015.04
Bank Service Charges	451.44		965.52		451.44
Marketing Expense			1,441.50		
Total Services	29,407.71		199,968.37	ac4, 130	29,407.71
Materials and Supplies				į.	
Fuel Operations	18,319.36		175,355.65	126,500	18,319.36
Sale of Fuel to City Departments	26,022.09		245,879.46	165,000	26,022.09
Maintenance Parts	6,861.86		79,726.82	188,076	6,861.86
Purchase Discounts	(688.59)		(7,176.39)		(688.59)
Tires Expense	2,916.48		13,973.34		2,916.48
Oil and Grease	907.30		3,794.30		907.30
Maintenance Supplies	315.69		8,263.70		315.69

Manchester Transit Authority Income Statement Transit For the Twelve Months Ending June 30, 2005

	Current	Budget	YTD	YTD	YTD
				Budget	Net Change
Body Shop Supplies Hazardous Materials Outside Parts and Labor	\$1,276.93 83.45		\$5,642.41 1,188.51 404.00		\$1,276.93 83.45
Repairs-Inner City Terminal Repairs-Building and Grounds Repairs-Shop Equipment	596.40 378.55		2,136.74 37,774.57 2,277.92		596.40 378.55
Repairs-Office Equipment Office Supplies Transit Schedules and Tickets	1,075.24 1,310.99		6,976.99 18,423.35 1,426.99		1,075.24 1,310.99
Total Materials and Supplies	59,375.75		596,068.36	46a, 738	59,375.75
Utilities					
Electricity Natural Gas	1,526.44		22,290.26 11,586.12		1,526.44
Telephone Water	592.59 293.87		7,814.05 1,858.83	-M	592.59 293.87
Total Utilities	2,412.90		43,549.26	44,517	2,412.90
Insurance					
Public Liability Insurance Other Liability	9,262.00 2,054.00		106,272.00 14,365.00		9,262.00 2,054.00
Total Insurance	11,316.00		120,637.00	119,568	11,316.00
Other Expenses					
Dues and Memberships Tolls and Parking	1,679.62 3,00		2,703.64 3.00		1,679.62 3.00
Training and Meetings Grievance Expense	(180.48)		1,218.53 2,671.88		(180.48)
Depreciation	29,157.75	***************************************	349,893.00		29,157.75
Total Other Expenses	30,659.89		356,490.05	355, 643	30,659.89
Total Expenses	320,577.12		3,318,914.74	3183 918	320,577.12
Net Income (Loss)	(50,761.58)		(351,095.98)	<u>(349, 893)</u>	(50,761.58)

\$ 1,203 difference FY 05 results equaled FY 05 Budget.

Commissioners Memorandum

To: Commissioners

From: Evan Rosset, Operations Planning Manager

Date: July 22, 2005

Re: Transit Ridership Report – June 2005



		<u>June</u>	-		<u>FYTD</u>	
Routes Weekdays		2005 21		FY 2004	FY 2005	
Saturdays	3	4	% Change			% Change
Airport- Route #1	1008	1,024	1.59%	9,786	11,296	15.43%
Lake-Hanover St. Route #2	3042	2,685	-11.74%	33,720	35,896	6.45%
Goffsfalls Route #3	1072	1,428	33.21%	12,443	14,979	20.38%
Page-Elliot Route #4	1785	1,937	8.52%	19,851	21,599	8.81%
Pinard-Bremer Route #5	1388	1,351	-2.67%	14,180	13,139	-7.34%
Gossler-St. Anselm Route #6	2199	2,130	-3.14%	21,304		18.53%
VA Hospital Route #7	1991	2,368	18.94%	22,116	23,793	7.58%
So. Willow Route #8	3537	3,917	10.74%	33,923	40,012	17.95%
DW Highway-River Rd. Route #9	1869	2,665	42.59%	22,376	25,331	13.21%
Valley-Weston Rd. Route #10	3412	3,789	11.05%	39,209	40,528	3.36%
Front St. Route #11	1666	1,480	-11.16%	18,575		1.06%
So. Beech Route #12	2459	3,541	44.00%	31,559		15.03%
Bedford Mall Route #13	4115	4,716	14.61%	42,451	52,654	24.03%
					<u> </u>	
VISTA SHUTTLE	560	494	-11.79%	4,841	4,218	-12.87%
HANNAFORDS SHUTTLE	429	622	44.99%	6,466	4,805	-25.69%
VERIZON WIRELESS SHUTTLE	252	295	17.06%	12,321	3,433	-72.14%
(number of events)		5			as a process	
Weekday Fixed Route Totals	30,784	34,442	11.88%	347,635	360 000	0.4407
Saturday Fixed Route Totals	2,571	4,585	78.34%			6.14%
MTA Specials & Excursions	45	4,000 E	LONG RESIDENCE DE CONTRACTOR D	35,210	 	13.04%
Fixed Route Weekday Average	1,399	1 640	47.040/	134		Control of the Contro
Houte Freekday Average	1,399]	1,640	17.21%	1,357	1,418	4.52%
Total Transit Passengers Served	33,400	39,032	16.86%	382,979	409,216	6.85%
Total StepSaver Passengers Served		854			5,573	

The attached graph shows system-wide ridership trends.

Evan Rosset

Operations Planning Manager



MANCHESTER TRANSIT AUTHORITY

110 ELM STREET, MANCHESTER, NH 03101-2799 TELEPHONE (603) 623-8801 FAX (603) 626-4512



JOHN H. TRISCIANI, CHAIR DAVID F. JESPERSEN, VICE CHAIR JULIE A. GUSTAFSON JOSEPH J. DESELLE PETER ESCALERA

DAVID SMITH EXECUTIVE DIRECTOR

Manchester Transit Authority

July 26, 2005 Commission Meeting

MEMBERS PRESENT:

Chairman John H. Trisciani

Vice Chairman David F. Jespersen Commissioner Julie A. Gustafson Commissioner Joseph J. Deselle Commissioner Peter Escalera

PERSONNEL PRESENT:

b.

David Smith. Executive Director

Karyn Bennett, Assistant Executive Director William J. Cantwell, Supt. of Administration Evan P. Rosset, Operations Planning Manager

Paul Beauregard, Shop Manager

1. a. Chairman TRISCIANI called the meeting to order at 5:00 PM.

Minutes of June 28, 2005 Commission Meeting. GUSTAFSON generated discussion about the insurance renewal contract. She felt the minutes didn't reflect there were other deadlines that Ferdinando had missed, that Albert Risk Management indicated they had requested pricing from Ferdinando several times prior to the final deadline of June 15th and Ferdinando never produced a quote. GUSTAFSON recommended the minutes reflect that there were more deadlines prior to their final June 15th deadline. JESPERSEN suggested the minutes reflect that the night of the board meeting there was a \$35,000 to \$40,000 difference in proposals. The reason he wants that reflected is Ferdinando's letter indicated they submitted an equal proposal after the Board voted. SMITH explained after



deadline of June 24th. Ferdinando came in at the same level as last year, not the same level as Chernin. On June 24th Chernin's bid for auto insurance was \$15,000 less than Ferdinando's and because he and Albert Risk Management didn't know what the excess insurance costs were going to be it was for that reason they recommended continuing with Ferdinando. They felt \$15,000 was a risk that wasn't worth taking because of the established relationship with Ferdinando and National Interstate. At the night of the Board Meeting Chernin submitted his complete package of insurances and Chernin's total bid package was \$38,000 less. GUSTAFSON said the minutes reflect that she felt because of the \$15,000 savings that we should go with Chernin Insurance, but that was not the only reason. She felt the \$15,000 was something to consider and because Mr. Chernin was told that he was a serious contender, she felt he deserved to go to the next level. She stated she is a proponent of staying local, if possible. JESPERSEN said when we made our final decision we thought the savings was significant to the taxpayers. GUSTAFSON made a motion to amend the June 28, 2005 Minutes as previously discussed to be approved at the August Meeting. Seconded by JESPERSEN. All Commissioners in favor.

MANAGEMENT REPORTS

a. <u>Financial Report for June 2005.</u> DESELLE made a motion to approve the June 2005 Financial Report. Seconded by GUSTAFSON. CANTWELL stated he would report year-to-date since June is the end of the fiscal period.

<u>Transit Operation:</u> CANTWELL reported transit revenue was \$133,794 more than budget (4.72%). Total operating revenues were \$162,165 more than budget (29.71%). Farebox was \$38,000 more than budget and sale of fuel to the City was



almost \$97,000 more than budget. These are the two significant variances over budget. All other items fall within the budget.

Expenses for the year were \$134,997 more than budget (4.24%). Variances in the labor and fringe benefit accounts offset each other; labor was under budget by \$57,419 and fringe benefits were over budget by \$62,299. Fuel was the most significant variance, in Materials and Supplies our vehicles were \$48,856 over budget and City vehicles were \$80,879 over budget. Our fuel expense was tempered by a significant reduction in maintenance parts, almost \$42,349.

Overall the FY2005 results were \$1,203 better than budgeted.

School Operation: School revenue was \$40,236 more than budget (1.62%). Charter revenue exceeded the budget by \$10,400. He estimates that school operations generated almost \$180,000 for the school bus replacement account. This money is being used to pay off the school's share of the computer software and computer network upgrade, the purchase of four new school buses, and the radio replacement project. CANTWELL explained the format of the new financial statements. He said the last column only reflects the month, he will change the format to reflect year-to-date. JESPERSEN asked what burden adjustment was. CANTWELL replied this is related to all of the employees. The burden is their fringe benefits and payroll taxes. Every hour they work outside of the transit operation that division needs to pick up the burden rate of approximately \$10.00 per hour. If someone worked an hour in school, then the school account pays the \$10.00 for vacation, holiday, uniform, and payroll taxes so transit doesn't pay more than its fair share.

CANTWELL stated in his narrative he talks about the school operation having \$40,000 more than budgeted. He said almost \$15,000 is revenue we shouldn't expect every year which was sale of the buses and an insurance repair reimbursement. JESPERSEN questioned the \$47,000 sale of student tickets. CANTWELL said that is what drivers tabulated for high school students riding school buses.

The check register was reviewed with JESPERSEN questioning if descriptions can be added in. CANTWELL will check it out.

Accounts Receivable was reviewed. SMITH commented there were a great number of charters in May and June and the receivables reflect the good standings on debt collection. TRISCIANI said it is good that the School Department is getting involved. TRISCIANI questioned the three outstanding West High School invoices. CANTWELL reported they had no money left in last years' budget, so these invoices will be paid in September. All Commissioners in favor of approving June 2005 Financial Report.

b. Operations Reports for June 2005.

Transit-School Report: BENNETT reported on the June 15th public hearing to discuss the Saturday schedule changes (addition of the Goffs Falls service and elimination of Pinard/Bremer Saturday service) and the increased StepSaver fare to \$2.00. There were two people from the public present with no negative comments. BENNETT will update on the status of the rate changes next month. On June 7th the new StepSaver vans went into service. On June 22nd we started a class for spare transit operators. We had 180 employees and family members in attendance for the company picnic. BENNETT reported the employee retention

bonus for all employees returning in the fall would amount to about \$18,000 in payouts, if all drivers return and stay through November. Out of the 85 school bus drivers employed, we have 73 drivers returning. The payments will be in two periods (October and November.) On June 22nd Consultant Mark Walsh from Transportation Advisory Services gave a brief presentation to the Coordination Committee regarding his review of transportation for the Manchester School District. He will be finalizing his report after our successful startup in September with recommendations for future transportation. BENNETT said the first training class has started with six trainees.

Transit Statistics Ridership Report: ROSSET reported June ridership was up 7% from last year. He explained he attended a marketing conference and those present at this conference said their ridership has increased at least 7% or 8% and some have seen double digit increases. No one can pinpoint why his or her ridership has increased. Due to higher ridership our passengers per revenue hours and per revenue miles are up. We missed six trips, of those missed trips two were due to the torrential rains and the flooding that occurred and the others were traffic. ESCALERA asked what was considered a passenger accident. SMITH replied it could be a slip or fall on the bus or the steps, or falling down while the bus is moving. SMITH explained there might be no actual injury, but they are filed for future reference to be on the safe side.

Maintenance Report: BEAUREGARD reported there were three road calls during the month. They performed forty-eight inspections in all three divisions.

There were no on the job injuries and the overtime is down. It was a busy month with getting inventory done and working on new buses. TRISCIANI questioned

Control had made for control of the second of the

the new school buses parked on the hill. BEAUREGARD said there are changes that need to be done on those school buses before he can accept them.

BEAUREGARD said Dattco should be here next week to make those changes.

NEW BUSINESS

a. Ratify Telephone Poll to Award Insurance Renewal to Chernin Insurance.

TRISCIANI commented on Ferdinando's recent letter and recommended

Ferdinando talk to our consultant Albert Risk Management. GUSTAFSON asked

if this letter was shown to our attorney. SMITH stated our attorney has reviewed

the letter and recommends SMITH write a courtesy letter acknowledging receipt.

SMITH stated in Ferdinando's letter he states they would like to meet with the

Board prior to taking any legal action, but they also indicate they have already

contacted the Attorney General and Department of Insurance filing a complaint

against us. SMITH said that is taking legal action.

At the June Board Meeting the Board directed Albert Risk Management to review Chernin's proposal. After Albert Risk Management's review, SMITH did a telephone poll and the Board voted to award Chernin a one year insurance contract. SMITH explained most insurance companies would not quote for more than one year. Typically transit agencies work with one broker for an extended period and the broker is responsible to get competitive prices from insurance companies each year, and that is what we intended when we bid the insurance package last year. We weren't getting all the services offered last year and we became concerned they weren't responding when things came to a crisis point with the insurance costs, so we had to call in another broker to ensure the insurer understood there was competition. JESPERSEN made a motion to ratify the vote



taken to award Chernin Insurance the MTA's insurance renewal. Seconded by DESELLE. All Commissioners in favor.

- **Door Replacement Project.** SMITH explained BENNETT received a firm b. proposal to replace three doors. The corridor door needs replacement and costs \$1,100, the main entry in the maintenance area needs to be replaced and costs \$2,455, and we need to replace the two doors in the vestibule next to the dispatch office for \$6,900. We want to upgrade the vestibule door to be handicapped accessible. JESPERSEN said that since we don't have a curb cut he felt we didn't need to have a wheelchair accessible door in that area. The door should be put in the front where the handicap people come in for their photo ID's. SMITH explained that is the primary entry for drivers coming in and out, there is a lot of traffic, and an automatic door will stay open when people are passing through. Also, we have an abundance of drivers with baby carriages coming in an out and an automatic door would make it easier for them. GUSTAFSON made a motion to award Door Control, Inc. the contract to replace the three doors for the price of \$10,455. Seconded by ESCALERA. JESPERSEN opposed. TRISCIANI, DESELLE, GUSTAFSON, and ESCALERA voted in favor.
- c. Non-Affiliated/Affiliated Employee Manual. SMITH explained we need to issue employee manuals to set forth conditions of employment. These manuals were something that the Board considered and were drafted by the attorney and staff several years ago but were never adopted. One of BENNETT's objectives this year is to get this done, as well as a driver manual. This is the first step in that project. BENNETT would like the Board to review and consider these manuals for discussion and adoption at the next meeting.

a consideration of the constraint of the constra

d.

Mew Transit Schedule Format: ROSSET explained the new schedule format mailed to Board Members. He said numerous transit properties are using this format. There is news on the front page, schedules and maps on the inside, and then policies on the back. After the first copy is printed, the cost will decrease because the inside and back pages don't change. He met with individuals from NH Union Leader and Hippo Press. Both papers are very interested in printing. They figured we would print about 25,000 copies quarterly and about 20,000 of those are distributed within Manchester through either the Union Leader or Hippo. The Union Leader is going to give us an aggressive price because they feel strongly this is something they want to do, and so does the Hippo. ROSSET said we could work with Union Leader one quarter and Hippo the next quarter. We can try different mixes to see which one works better. GUSTAFSON said to keep in mind that Hippo's demographics are much younger. ROSSET said we would keep about 5,000 and distribute on buses. He explained we also received a Spanish translation from the Minority Health Coalition of our policies.

OLD BUSINESS

- 4. a. MSD Athletics Department Proposal Athletic Committee Meeting of

 August 3rd, 2005. SMITH explained the athletics proposal was submitted to the

 Athletic Committee on August 3rd by Frank Bass and Joe Raycraft. It is his

 understanding they also received a proposal from Spartan Bus Lines from Nashua.

 He feels confident the MTA will get the athletic charter work.
 - b. <u>School Contract Negotiations.</u> SMITH explained the school contract is now complete. At the last meeting the Commissioners accepted the contract with the exception of the language that said we would pay for alternate transportation if we

couldn't perform a charter. The School District accepted the alternate language that said we would pay their out of pocket costs if we fail to meet their requirements. He believes everything is agreed to and we just have to wait for their approval.

going well and there are only five or six more days for installation. The Fire Department needs to install the three control stations in the dispatch office and maintenance area. SMITH requested the Board enhance this project by adding a two-way voice recording equipment for radio transmissions. This would be beneficial for documenting response to critical situations. JESPERSEN asked if they would be adding the StepSaver channel. SMITH said they still have to reprogram the transit radios. JESPERSEN made a motion to purchase the equipment for the radio monitoring for \$6,720. Seconded by GUSTAFSON. All Commissioners in favor.

d. Status of Capital Projects:

- Bus Stop Signs ROSSET said this project is about 90% complete. All the signs have been installed. They are reviewing the installation to see if the signs are in the right place. We are taking in and reviewing all the information the drivers and passengers are giving us.
- Transit Buses SMITH ordered six new transit buses with an option for three more buses, based on Board action on May 31, 2005.



OTHER BUSINESS

- 5. a. <u>First Transit Regional Meeting:</u> SMITH polled the Board to see who would be interested in attending First Transit's Regional Meeting. TRISCIANI will be attending.
 - b. Procurement Handbook: SMITH said the procurement handbook he gave the Board members was recently published by the American Public Transit Association and FTA. It is an executive level review of how to manage procurement for federal projects.
 - c. <u>VersaTrans Upgrade:</u> SMITH explained we are upgrading VersaTrans software to a higher version and upgrading the paraplan software for managing paratransit reservations. VersaTrans' and Paraplans' upgrades require a computer with SQL and the consultant recommends the programs be put on a separate server rather than a single common server because of all the users (dispatchers, department heads, office personnel, and School District.) They are recommending we purchase a second server for those two programs to allow them to operate separately from the other systems so we don't get bogged down. The cost to add the second server is \$9,500 and would be split between school and transit, 80% of transit will be federal share. GUSTAFSON made a motion to purchase the second server for \$9,500. Seconded by DESELLE. All Commissioners in favor.
 - d. <u>Comprehensive Operations Analysis ("COA"):</u> SMITH explained the COA is a project the MTA proposed to the State two years ago and Southern NH Planning Commission ("SNHPC") is picking it up this year. SNHPC put out a request for qualifications, then a request for proposals. They received four proposals from qualified firms and now have to go through a selection process. MTA staff and a

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Board Member will be on the selection committee. SMITH recommended that the Board nominate one person to represent the Board. TRISCIANI nominated JESPERSEN. JESPERSEN accepted.

- **CMAQ Grant:** SMITH said the CMAQ application is due August 1st. He e. explained the biggest part is trying to figure out what projects are feasible for funding. The State is interested in regional activities and has enduring interest in the east/west corridor between Portsmouth and Manchester, but this is not something we would apply for because we would not operate it. The State and SNHPC would find somebody else to do that work. SMITH explained he has received interest from Goffstown and will be attending a meeting tonight. He will be talking with them to see if they are interested in participating in a CMAQ grant application that would fund an extension into Goffstown. Concord did a study of transportation desires in Pembroke and Allenstown to determine if they might extend their system, and based on the responses they received from those areas it looks like some kind of connection between Manchester and Concord might be feasible. The Mayor is interested in a downtown circular. Mr. McKenzie, Planning Department, recommends we focus on things that benefit the MTA and our ridership and he feels that would be the Goffstown and Concord connection. TRISCIANI asked about coastal transportation to the Airport. SMITH said that is not something we would be doing. SMITH will keep the Board informed.
- f. Bus Signage: JESPERSEN talked about the signs inside the buses that are being put up behind the drivers (schedule changes, etc.) He asked if they could be put up where they are more visible and be on poster board with large print. He also requested multi-language signs.

- g. <u>Sixth Annual Latino Parade and Cultural Festival</u>: ESCALERA talked about the Latino parade to be held on August 19th. The assembling area is Victory Park at 12:00 Noon. The Cultural Fair will be held on August 20th from 12:00 Noon until 8:00 PM.
- h. Date for Next Meeting. Tuesday, August 30, 2005.

With no further business to come before the Board, JESPERSEN made a motion to adjourn the meeting at 6:26 PM. Seconded by ESCALERA. All Commissioners in favor.



Transit

July 2005



Manchester Transit Authority Income Statement Transit For the Month Ending July 31, 2005

	Current	Budget	YTD	YTD	YTD
			*******	Budget	Net Change
Farebox Revenue					
i arebox revenue					
Farebox Revenue	\$17,908.91	\$18,750.00	\$17,908.91	\$18,750.00	(\$841.09)
Adult Fares	2,882.50	2,300,00	2,882.50 3,828.00	2,300.00 2,100.00	582.50 1,728.00
Adult Monthly Fares Senior Citizens Fares	3,828.00 1,135.00	2,100.00 800.00	1,135.00	800.00	335.00
Senior Citizen Faies Senior Citizen Monthly Fare	700.00	1,000.00	700.00	1,000.00	(300.00)
Disabled Rider Fare	675 . 50	1,500.00	675.50	1,500.00	(824.50)
Student Fares	232.50	300.00	232.50	300.00	(67.50)
Total Farebox and Tickets	27,362.41	26,750.00	27,362.41	26,750.00	612.41
Shuttle and Excursions					
Shopping Shuttle	960.00	1,000.00	960.00	1,000.00	(40.00)
Excursion Revenue	(75.00)	1,000.00	(75.00)	1,000.00	(1,075.00)
Total Shuttle and Excursions	885.00	2,000.00	885.00	2,000.00	(1,115.00)
Other Revenue					
Sale of Fuel to City Departments	26,661.32	25,000.00	26,661.32	25,000.00	1,661.32
Sale of Maintenance Service to City	2,959.47	2,000.00	2,959.47	2,000.00	959.47
Advertising Revenue-Bus	3,113.99	5,000.00	3,113.99	5,000.00	(1,886.01)
Rental of Innercity Terminal		800.00		800.00	(800.00)
Sale of Scrap Materials	48.75		48.75		48.75
Interest Income	993.90	500.00	993.90	500.00	493.90
Photo Picture ID Revenue	10.00	25.00	10.00	25.00 25.00	(15.00) (24.99)
Other Non-Tranp. Revenue	·············· 0.01	25.00	0.01		
Total Other Revenue	33,787.44	33,350.00	33,787.44	33,350.00	437.44
Total Operational Income	62,034.85	62,100.00	62,034.85	62,100.00	(65.15)
Operating Assistance					
City of Manchester	89,557.58	89,558.00	89,557.58	89,558.00	(0.42)
Town of Bedford	3,400.00	3,400.00	3,400.00	3,400.00	
Federal Operating Subsidy	110,805.00	106,926.00	110,805.00	106,926.00	3,879.00
Total Operating Assistance	203,762.58	199,884.00	203,762.58	199,884.00	3,878.58
Total Revenue	265,797.43	261,984.00	265,797.43	261,984.00	3,813.43
Expenses					
Labor					
Transit Operator Wages	57,909.24	59,821.00	57,909.24	59,821.00	(1,911.76)
Transit Operator Overtime Wages	6,378.59	4,884.00	6,378.59	4,884.00	
StepSaver Operator Wages	10,523.12	10,664.00	10,523.12	10,664.00	
StepSaver Operator Overtime Wages	1,085.21	2,630.00	1,085.21	2,630.00	
Mechanic Wages	16,729.27	13,326.00	16,729.27	13,326.00	3,403.27 18.86
Mechaine Overtime Wages	18.86	ስ ለ17 ሰስ	18.86 10,077.67	9,417.00	
Transp. Admin Wages	10,077.67 155.04	9,417.00 270.00	155.04	270.00	
Transp. Admin Overtime Wages Maint. Admin Wages	3,504.89	3,722.00	3,504.89	3,722.00	
General Admin Wages	7,574.39	5,921.00	7,574.39	5,921.00	
Gen. Admin Overtime Wages	279.88	81.00	279.88	81.00	198.88
Payroll Transaction	298.46		298.46		298.46
Total Labor	114,534.62	110,736.00	114,534.62	110,736.00	3,798.62



Manchester Transit Authority Income Statement Transit For the Month Ending July 31, 2005

_	Current	Budget	YTD	YTD	YTD
			***************************************	Budget	Net Change
T5					
Fringe Benefits					
Health Insurance Expense	\$41,408.24	\$40,617.00	\$41,408.24	\$40,617.00	\$791.24
Dental Insurance Expense	1,409.98	φ10,017.00	1,409.98	φ+0,017.00	1,409.98
Life Insurance Expense	690.20	665.00	690.20	665.00	25.20
Pension Expense	9,078.00	6,370.00	9,078.00	6,370.00	2,708.00
FICA Expense	8,572.05	10,081.89	8,572.05	10,081.89	(1,509.84)
Worker's Compensation	3,820.67	4,832.00	3,820.67	4,832.00	(1,011.33)
Unemployment Compensation	454.92	438.00	454.92	438.00	16.92
Transit Operator Vacation Wages	4,136.80	4,512.00	4,136.80	4,512.00	(375.20)
Transit Operator Holiday Wages	4,320.12	7,057.00	4,320.12	7,057.00	(2,736.88)
Transit Operator Sick Wages	2,244.33	2,647.00	2,244.33	2,647.00	(402.67)
Mechanic Vacation Wages	1,669.00	1,594.50	1,669.00	1,594.50	74.50
Mechanic Holiday Wages	1,253.64	1,143.83	1,253.64	1,143.83	109.81
Mechanic Sick Wages Transp. Admin Vacation Wages	234.24	95.33	234.24	95.33	138.91
Transp. Admin Vacation Wages Transp. Admin Holiday Wages	938.20	1,076.67 703.17	938.20	1,076.67	(138.47)
Transp. Admin Floriday Wages Transp. Admin Sick Wages	1,003.24	210.92	1,003.24	703.17 210.92	300.07
Maint. Admin Vacation Wages	652.00	291.83	652.00	291.83	(210.92)
Maint, Admin Holiday Wages	524.84	379.42	524.84	379.42	360.17 145.42
Maint. Admin Sick Wages	224.04	87.58	224.04	87.58	(87.58)
Gen Admin. Vacation Wages	672.20	677.00	672.20	677.00	(4.80)
Gen. Admin Holiday Wages	787.69	442.83	787.69	442.83	344.86
Gen. Admin Sick Wages	707.07	132.83	767.02	132.83	(132.83)
Transit Uniform Allowance	1,115.44	779.00	1,115.44	779.00	336.44
Maintenance Uniform Allowance	1,110,11	504.00	1,115,11	504.00	(504.00)
Tool Allowance	599.88	117.00	599.88	117.00	482.88
License Reimbursement	23,100	25.00	5,5,100	25.00	(25.00)
Burden Adjustment	(6,013.41)	(14,553.00)	(6,013.41)	(14,553.00)	8,539.59
Total Fringe Benefits	79,572.27	70,927.80	79,572.27	70,927.80	8,644.47
Services					
Management Council and		10.1.10.00		4.	(40.740.00)
Management Consultant	405.00	12,142.00	405.00	12,142.00	(12,142.00)
Commissioner Expense	425.00	83.00	425.00	83.00	342.00
Legal Expense Service Bureau	50.00	500.00	50.00	500.00	(450.00)
Security Service	359.16 64.77	1,000.00 100.00	359.16 64.77	1,000.00 100.00	(640.84) (35.23)
Outside Advertising	951.43	333.00	951.43	333.00	618.43
Drug & Alcohol Testing	910.00	333.00	910.00	333.00	577.00
Pre-Employment Medical	710.00	83.00	910.00	83.00	(83.00)
Janitorial Service and Supplies	477.54	658.00	477.54	658.00	(180.46)
Bank Service Charges	658.12	500.00	658.12	500.00	158.12
Total Services	3,896.02	15,732.00	3,896.02	15,732.00	(11,835.98)
Materials and Supplies					
Fuel Operations	17,701.98	13,808.00	17,701.98	13,808.00	3,893.98
Sale of Fuel to City Departments	24,334.00	25,000.00	24,334.00	25,000.00	(666.00)
Maintenance Parts	6,112.00	9,871.00	6,112.00	9,871.00	(3,759.00)
Purchase Discounts	(129.57)	(250.00)	(129.57)	(250.00)	
Tires Expense	416.57	1,283.00	416.57	1,283.00	(866.43)
Oil and Grease	321.51	232.00	321.51	232.00	89.51
Maintenance Supplies	1,002.40	639.00	1,002.40	639.00	363.40
Body Shop Supplies	1,212.99	148.00	1,212.99	148.00	1,064.99
Hazardous Materials	Annu ne men e n. n.	246.00	- y- #	246.00	(246.00)
Outside Parts and Labor	50.00	42.00	50.00	42.00	8.00
Repairs-Inner City Terminal		250.00		250.00	(250.00)



Manchester Transit Authority Income Statement Transit For the Month Ending July 31, 2005

•	Current	Budget	YTD	YTD	YTD
			_	Budget	Net Change
Repairs-Building and Grounds	\$1,927.56	\$1,425.00	\$1,927.56	\$1,425.00	\$502.56
Repairs-Shop Equipment	45.71	190.00	45.71	190.00	(144.29)
Repairs-Radio Equipment		83.00		83.00	(83.00)
Repairs-Office Equipment	249.30	217.00	249.30	217.00	32.30
Office Supplies	933.38	670.00	933.38	670.00	263.38
Transit Schedules and Tickets	510.33	584.00	510.33	584.00	(73.67)
Total Materials and Supplies	54,688.16	54,438.00	54,688.16	54,438.00	250.16
Utilities					
Electricity	1,554.38	1,900.00	1,554.38	1,900.00	(345.62)
Natural Gas	486.48	1,283.00	486.48	1,283.00	(796.52)
Telephone	598.73	594.00	598. 7 3	594.00	4.73
Water _	141.96	143.00	141.96	143.00	(1.04)
Total Utilities	2,781.55	3,920.00	2,781.55	3,920.00	(1,138.45)
Insurance					
Public Liability Insurance	11,773.00	10,583.00	11,773.00	10,583.00	1,190.00
Other Liability	953.00	1,374.00	953.00	1,374.00	(421.00)
Total Insurance	12,726.00	11,957.00	12,726.00	11,957.00	769.00
Other Expenses					
Dues and Memberships		83.00		83.00	(83.00)
Tolls and Parking	75.00		75.00		75.00
Training and Meetings	370.66	250.00	370.66	250.00	
Grievance Expense		38.00		38.00	,
Depreciation	28,000.00	29,158.00	28,000.00	29,158.00	(1,158.00)
Total Other Expenses	28,445.66	29,529.00	28,445.66	29,529.00	(1,083.34)
Total Expenses	296,644.28	297,239.80	296,644.28	297,239.80	(595.52)
Net Income (Loss)	(30,846.85)	(35,255.80)	(30,846.85)	(35,255.80	4,408.95



School

July 2005



Manchester Transit Authority Income Statement School For the Month Ending July 31, 2005

	Current	Budget	YTD	YTD	YTD
			-	Budget	Net Change
Student Transportation					
Special Needs		\$13,201.00		\$13,201.00	(\$13,201.00)
Total Student Transportation		13,201.00		13,201.00	(13,201.00)
School Charter		, , , , , , , , , , , , , , , , , , ,			
Student Fieldtrips	4,311.25	2,000.00	4,311.25	2,000.00	2,311.25
Total School Charters	4,311.25	2,000.00	4,311.25	2,000.00	2,311.25
Other Revenue					
Interest Income	414.07	100.00	414.07	100.00	314.07
Total Other Revenue	414.07	100.00	414.07	100.00	314.07
Total Operational Income	4,725.32	15,301.00	4,725.32	15,301.00	(10,575.68)
Expenses					
Labor					
School Operator Wages	9,401.58	7,915.00	9,401.58	7,915.00	1,486.58
School Operator Overtime Wages	1,121.52	,	1,121.52	•	1,121.52
Mechanic Wages	4,184.36	9,260.00	4,184.36	9,260.00	(5,075.64)
Transp. Admin Wages Transp. Admin Overtime Wages	2,742.68	7,061.00	2,742.68	7,061.00	(4,318.32)
Maint. Admin Wages	21.83	270.00 3,186.00	21.83 1,629.49	270.00 3,186.00	(248.17) (1,556.51)
General Admin Wages	1,275.93	4,457.00	1,275.93	4,457.00	(3,181.07)
Gen. Admin Overtime Wages	1,210,00	51.00	1,210.00	51.00	(51.00)
Total Labor	20,377.39	32,200.00	20,377.39	32,200.00	(11,822.61)
Fringe Benefits					
Health Insurance Expense	1,155.03		1,155.03		1,155.03
Dental Insurance Expense	530.04		530.04		530.04
FICA Expense	531.86	2,438.75	531.86	2,438.75	(1,906.89)
Worker's Compensation	3,022.00	378.00	3,022.00	378.00	2,644.00
School Operator Holiday Wages	222.90	0.40.00	222.90	2.42.00	222.90
School Uniform Allowance License Reimbursement	150.00 70.00	342.00 125.00	150.00 70.00	342.00 125.00	(192.00)
Burden Adjustment	6,013.41	13,812.00	6,013.41	13,812.00	(55.00) (7,798.59)
Total Fringe Benefits	11,695.24	17,095.75	11,695.24	17,095.75	(5,400.51)
Services					
Management Consultant		12,142.00		12,142.00	(12,142.00)
Commissioner Expense	425.00	83.00	425.00	83.00	342.00
Legal Expense	75.00	500.00	75.00	500.00	(425.00)
Service Bureau	784.71	1,500.00	784.71	1,500.00	(715.29)
Security Service	59.78	150.00	59.78	150.00	(90.22)
Outside Advertising	66.45	1,250.00	66.45	1,250.00	(1,183.55)
Driver and Criminal Record Drug & Alcohol Testing	507.00	150.00	507.00	150.00	357.00
Pre-Employment Medical	*	666.00 684.00		666.00 684.00	(666.00) (684.00)
Janitorial Service and Supplies	477.56	658.00	477.56	658.00	(180.44)
Bank Service Charges	74.90	75.00	74.90	75.00	
Total Services	2,470.40	17,858.00	2,470.40	17,858.00	(15,387.60)



Manchester Transit Authority Income Statement School For the Month Ending July 31, 2005

	Current	Budget	YTD	YTD	YTD
-			***	Budget	Net Change
Materials and Supplies					
Fuel Operations	\$1,392.38	\$1,378.00	\$1,392.38	\$1,378.00	\$14.38
Maintenance Parts	1,827.18	500.00	1,827.18	500.00	1,327.18
Tires Expense	2,132.40	141.00	2,132.40	141.00	1,991.40
Oil and Grease	18.61	28.00	18.61	28.00	(9.39)
Maintenance Supplies	1,044.92	444.00	1,044.92	444.00	600.92
Body Shop Supplies	195.69	103.00	195.69	103.00	92.69
Hazardous Materials		171.00		171.00	(171.00)
Outside Parts and Labor		42.00		42.00	(42.00)
Repairs-Building and Grounds	206.56	1,075.00	206.56	1,075.00	(868.44)
Repairs-Shop Equipment	34.46	143.00	34.46	143.00	(108.54)
Repairs-Radio Equipment		83.00		83.00	(83.00)
Repairs-Office Equipment	230.12	200.00	230.12	200.00	30.12
Office Supplies	704.44	1,005.00	704.44	1,005.00	(300.56)
Transit Schedules and Tickets		584.00		584.00	(584.00)
Total Materials and Supplies	7,786.76	5,897.00	7,786.76	5,897.00	1,889.76
Utilities					
Electricity	1,271.76	1,433.00	1,271.76	1,433.00	(161.24)
Natural Gas	367.00	968.00	367.00	968.00	(601.00)
Telephone	489.85	448.00	489.85	448.00	41.85
Water	116.15	108.00	116.15	108.00	8.15
Total Utilities	2,244.76	2,957.00	2,244.76	-2,957.00	(712.24)
Insurance					
Public Liability Insurance	17,533.00	26,728.00	17,533.00	26,728.00	(9,195.00)
Other Liability	840.04	1,160.00	840.04	1,160.00	(319.96)
Total Insurance	18,373.04	27,888.00	18,373.04	27,888.00	(9,514.96)
Other Expenses					
Dues and Memberships		167.00		167.00	(167.00)
Training and Meetings	980.72	333.00	980.72	333.00	647.72
Grievance Expense	200.12	38.00	900112	38.00	(38.00)
Depreciation	21,000.00	20,000.00	21,000.00	20,000.00	1,000.00
Total Other Expenses	21,980.72	20,538.00	21,980.72	20,538.00	1,442.72
Total Expenses	84,928.31	124,433.75	84,928.31	124,433.75	(39,505.44)
•					
Net Income (Loss)	(80,202.99)	(109,132.75)	(80,202.99)	(109,132.75)	28,929.76

Commissioners Memorandum

To:

Commissioners

From:

Evan Rosset, Operations Planning Manager

Date:

August 30, 2005

Re:

Transit Ridership Report - July 2005



<u>July</u>

Dantan		2004	2005	
<u>Routes</u>	Weekdays	21	20	
	Saturdays	5	5	% Change
Airport-Route #1		949	822	-13.38%
Lake-Hanover St. Rou		2505	2,135	-14.77%
Goffsfalls Route #	3	1051	1,601	52.33%
Page-Elliot Route #	‡4	1705	1,913	12.20%
Pinard-Bremer Route	e #5	1177	1,059	-10.03%
Gossler-St. Anselm Ro	ute #6	2018	1,940	-3.87%
VA Hospital Route	#7	1870	2,488	33.05%
So. Willow Route #	# 8	3183	3,863	21.36%
DW Highway-River Rd. R	Route #9	1712	2,231	30.32%
Valley-Weston Rd. Rou		3299	3,854	16.82%
Front St. Route #1	1	1296	1,825	40.82%
So. Beech Route #12		2422	3,323	37.20%
Bedford Mall Route	#13	3895	4,667	19.82%
VISTA SHUTTLE		476	440	-7.56%
HANNAFORDS SHUTTLE		451	694	53.88%
VERIZON WIRELESS SHUTTLE		279	73	-73.84%
(number of events)			5	
•				
Weekday Fixed Route	Totals	28,288	32,928	16.40%
Saturday Fixed Route	Totals	3,925	3,262	-16.89%
MTA Specials & Excursions		72	148	
Fixed Route Weekday A	lverage	1,347	1,646	22.22%
Total Transit Passengers	Served	32,285	36,338	12.55%
Total StepSaver Passenge	ers Served	906	714	

The attached graph shows system-wide ridership trends.

Evan Rosset

Operations Planning Manager

In the year Two Thousand and Five

AN ORDINANCE

"An Ordinance amending the Ordinances of the City of Manchester by adding a new Section 32.104 Department of Senior Services."

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

32.104 Department of Senior Services.

- I. The Department of Elderly Services shall hereinafter be known and called the Department of Senior Services. The department head shall be known as the Director of Senior Services and the commission shall be known as the Senior Services Commission.
- II. This Ordinance shall take effect upon passage.



In the year Two Thousand and Five

AN ORDINANCE

"An Ordinance amending the Ordinances of the City of Manchester by amending Sections 32.105, 32.106, 32.107, 32.108, 32.109 and 32.110 substituting language of 'Senior' for 'Elderly'."

- I. An ordinance amending the ordinances of the City of Manchester by amending Sections 32.105, 32.106, 32.107, 32.108, 32.109 and 32.110 by substituting the word "Senior" for the word "Elderly" wherever it appears.
- II. This ordinance shall take effect upon passage.

(personal personal pe

To the Board of Mayor and Aldermen of the City of Manchester:

The Committee on Bills on Second Reading respectfully recommends, after due and careful consideration, that Ordinances:

"Amending Chapter 30: City Officials and Employees of the Code of Ordinances of the City of Manchester by adding §30.49 Office of Independent City Auditor and §30.50 Duties of Independent City Auditor."

"Amending Sections 36.15 Issuance of Warrant for Collection; Notice to City Auditor and 36.17 Abatement Before Payment of the Code of Ordinances of the City of Manchester by replacing the term City Auditor with the term Independent City Auditor and Finance Officer."

"Amending Section 36.16 Records and Reports of Abatements, 36.18 Abatement After Payment, and 36.35 Special Account for Taxes and Assessments of the Code of Ordinances of the City of Manchester by replacing the term City Auditor with the term Finance Officer."

ought to pass.

(Unanimous vote)

Respectfully submitted,

Clerk of Committee

Tell Promes.



City of Manchester Office of the City Solicitor

One City Hall Plaza Manchester, New Hampshire 03101 (603) 624-6523 Fax (603) 624-6528

TTY: 1-800-735-2964

Email: solicitor@ci.manchester.nh.us

Thomas R. Clark City Solicitor

Thomas I. Arnold, III Deputy City Solicitor

Daniel D. Muller, Jr. Michele A. Battaglia Marc van Zanten

June 2, 2005

IN BOARD OF MAYOR & ALDERMEN

DATE: June 7, 2005

MOTION OF ALD. O'Neil

SECONDED BY ALD. Forest

refer to the Committee on Bills

VOTED TO on Second Reading.

Independent City Auditor Re:

Board of Mayor and Aldermen

Ladies and Gentlemen:

c/o City Clerk

One City Hall Plaza

Manchester, NH 03101

The amendment to Section 6.12 of the City Charter becomes effective on July 1, 2005. The first phase of the transition to an Independent City Auditor took place when the necessary funding was moved from the Finance Department to the Office of the City Solicitor.

In order to continue this process, I am enclosing a draft ordinance establishing the Independent City Auditor as a division within the Office of the City Solicitor. This ordinance accomplishes the transfer of Kevin Buckley from the Finance Department to the Office of the City Solicitor. I would suggest that this draft be referred to the Committee on Bills on Second Reading for technical review.

As set forth in the amended City Charter Section 6.12, the Board of Mayor and Aldermen is to appoint the Independent City Auditor. It would be appropriate at this time to appoint Kevin Buckley to that position effective July 1, 2005.

If you have any questions, feel free to contact me.

Very truly yours,

Thomas R. Clark

City Solicitor

TRC/hr Enclosure

Robert A. Baines, Mayor

Kevin Buckley Kevin Clougherty

In the year Two Thousand and

AN ORDINANCE

"Amending Chapter 30: City Officials and Employees of the Code of Ordinances of the City of Manchester by adding §30.49 Office of Independent City Auditor and §30.50 Duties of Independent City Auditor."

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

I. OFFICE OF INDEPENDENT CITY AUDITOR

§30.49 OFFICE ESTABLISHED.

Pursuant to City Charter Section 6.12, the Office of Independent City Auditor is hereby established as a division within the Office of the City Solicitor.

§30.50 DUTIES OF INDEPENDENT CITY AUDITOR.

- (A) The position of Independent City Auditor is hereby transferred to the Office of the City Solicitor. It shall report to the Board of Mayor and Aldermen or to such committee as the Board of Mayor and Aldermen may designate.
- (B) It shall be the duty of the Independent City Auditor to perform such duties and functions as are set forth in City Charter Section 6.12.
- (C) The cost of any audit done by the Independent City Auditor or by any other auditor under his direction or authority of any department funded by any self-sustaining or special fund shall be a charge against the appropriate fund, and said cost shall be transferred from said fund to the general fund.
- (D) The Independent City Auditor shall receive the full cooperation of all other city officials and departments. The Finance Officer shall provide assistance to the Independent City Auditor upon request.
- (E) In making any audit, investigation, analysis, or research the Independent City Auditor shall have the power to examine whatever accounts or records of or property or things of value held by any department, board, institution, commission or agency that is deemed useful to said audit, investigation, analysis, or research requested by the Board of Mayor and Aldermen. All City departments, boards, institutions, commissions or agencies shall be required to furnish to the Independent City Auditor any information, including confidential information, the Independent City Auditor may request in the course of carrying out his/her duties.
- (F) The Independent City Auditor shall be subject to the same restrictions and penalties regarding disclosure of confidential information as the original custodian of the information. Disclosure of confidential information to the Independent City Auditor shall be for the purpose of, and to the extent necessary for, conducting audits, investigations, analysis, or research. If any department, board, institution, commission or agency objects to providing confidential information under the provisions of this section, the entity may apply to the City Solicitor for disapproval of the request. The City Solicitor shall review any confidential information to which the Independent City Auditor has requested access to determine whether or not it is necessary for the Independent City Auditor to examine the information. If it is determined that such information is necessary it shall be provided in a mutually agreeable and compatible format.
- II. This Ordinance shall take effect upon its passage.

In the year Two Thousand and

AN ORDINANCE

"Amending Sections 36.15 Issuance of Warrant for Collection; Notice to City Auditor and 36.17 Abatement Before Payment of the Code of Ordinances of the City of Manchester by replacing the term City Auditor with the term Independent City Auditor and Finance Officer."

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

I. Amend the Code of Ordinances by deleting language stricken (----) and inserting new language in *italics*. Language in regular type remains the same.

CHAPTER 36: TAXATION

- §36.15 ISSUANCE OF WARRANT FOR COLLECTION; NOTICE TO CITY AUDITOR INDEPENDENT CITY AUDITOR AND FINANCE OFFICER.
- (A) The Board of Assessors shall issue a warrant on the Collector of Taxes for the collection of all taxes and assessments due the city and they shall simultaneously notify the City Auditor Independent City Auditor and Finance Officer of all such warrants issued.
- (B) The City Auditor Independent City Auditor and Finance Officer shall charge the Collector of Taxes on the city's general ledger with the amount of all warrants issued.

§36.17 ABATEMENT BEFORE PAYMENT.

Upon the abatement of any unpaid tax or taxes, the Board of Assessors shall make certificates thereof, and of the amounts so abated, with the reasons therefor, and shall thereupon deliver the certificates to the Collector of Taxes, who has in his hands, for collection, the tax or taxes so abated, and shall report to the City Auditor Independent City Auditor and Finance Officer the sum or sums so abated and certified, each month, and these abatements shall be credited to the Collector.

II. This ordinance shall take effect upon its passage.

In the year Two Thousand and

AN ORDINANCE

"Amending Sections 36.16 Records and Reports of Abatements, 36.18 Abatement After Payment, and 36.35 Special Account for Taxes and Assessments of the Code of Ordinances of the City of Manchester by replacing the term City Auditor with the term Finance Officer."

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

I. Amend the Code of Ordinances by deleting language stricken (----) and inserting new language in *italics*. Language in regular type remains the same.

CHAPTER 36: TAXATION

§36.16 RECORDS AND REPORTS OF ABATEMENTS..

The Board of Assessors shall keep a record of all taxes abated and shall issue an annual report of total abatements, by levies. The records shall be kept in such form as to show a separation by levies, of poll, personal and property taxes and both assessments, abatements made before payments, abatements made after payments, and reassessments, and the monthly report of the City Auditor Finance Officer shall accurately specify these details.

§36.18 ABATEMENT AFTER PAYMENT.

If any abated tax has been previously paid into the city treasury, a certificate from the Board of Assessors, aprpoved by the Board of Mayor and Aldermen, shall be sufficient authority for the City Auditor Finance Officer to draw a warrant on the City Treasurer for the amount so abated to the person in whose favor the certificate shall be drawn. The amount shall be charged to the appropriation for tax refund.

§36.35 SPECIAL ACCOUNT FOR TAXES AND ASSESSMENTS.

The City Auditor Finance Officer shall open an account with the Collector of Taxes, wherein the Collector of Taxes shall be charged with the amount of assessments and taxes placed in his hands for collection.

II. This ordinance shall take effect upon its passage.

In the year Two Thousand and

AN ORDINANCE

"Repealing Sections 35.017 (Y, Z, AA, AB and AC) Duties of Finance Officer and 35.018 Audit of the Code of Ordinances of the City of Manchester."

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

I. Amend the Code of Ordinances by repealing the paragraphs and/or sections listed below in their entirety.

CHAPTER 35: FINANCES

§35.017 DUTIES OF FINANCE OFFICER.

- (Y) Conduct post-audits of the accounts and records of any city department. The Finance Officer may cooperate with federal officials and agencies in conducting said post-audits.
- (Z) Order the audit of the accounts of the City Treasury, at least once each year, by a certified public accountant, selected pursuant to the provisions of the Procurement Code, and designated by the Finance Officer.
- (AA) Provide a copy of final draft audit reports to respective department heads and commissions for their review and comment prior to submission to the Board of Mayor and Aldermen.
- (AB) Submit a detailed report of every audit conducted pursuant to this section to the Board of Mayor and Aldermen for its approval. After acceptance by the Board of Mayor and Aldermen, a copy of the report shall be given to the Executive Officer of the department concerned. The Executive Officer shall submit a written statement explaining or rebutting the findings of the report to the Board of Mayor and Aldermen.
- (AC) Conduct such program result audits of any department as the Board of Mayor and Aldermen shall specifically direct. Program result audits shall be conducted in accordance with governmental auditing standards as promulgated by the Comptroller General of the United States and shall include, but not be limited to, examinations and any determinations based upon the examinations as to whether the results contemplated by the Board of Mayor and Aldermen have been and are being achieved by the department concerned, and whether such objectives could be obtained more effectively through other means. The Board of Mayor and Aldermen shall, at least every ten years, consider the necessity of the review, pursuant to this section, of each city department.

In the year Two Thousand and

AN ORDINANCE

"Repealing Sections 35.017 (Y, Z, AA, AB and AC) Duties of Finance Officer and 35.018 Audit of the Code of Ordinances of the City of Manchester."

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

§35.018 AUDITS.

The cost of any audit done by the Finance Officer or by an other auditor under his direction or authority of any department funded by an self-sustaining or special fund shall be a charge against the appropriate fund, and said cost shall be transferred from said fund to the general fund.

II. This ordinance shall take effect upon its passage.

To the Board of Mayor and Aldermen of the City of Manchester:

The Committee on Bills on Second Reading respectfully recommends, after due and careful consideration, that an Ordinance:

"Amending Chapter 32, Conservation Commission, Section 32.092 Composition; Terms, of the Code of Ordinances of the City of Manchester."

ought to pass.

(Unanimous vote)

Respectfully submitted,

Lel Berner

Clerk of Committee

In the year Two Thousand and

AN ORDINANCE

"Amending Chapter 32, Conservation Commission, Section 32.092 Composition; Terms, of the Code of Ordinances of the City of Manchester."

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

I. Amend Section 32.092 of the Code of Ordinances by inserting new language as bolded (**bold**). Language of Section 32.092 not struck through or bolded remains unchanged.

§32.092 COMPOSITION; TERMS.

The Commission shall consist of seven members, all citizens of the city and all appointed by the Mayor, subject to the approval of the Board of Mayor and Aldermen. In addition, the Mayor, subject to the approval of the Board of Mayor and Aldermen, may appoint two alternate members to the Commission, who shall be residents of the city and who shall have full voting powers when designated by the Chairperson to act in the place of an absent or disqualified member. The original Chairperson shall be appointed for a term of three years, three members shall have two-year terms, and three members shall have one-year terms. Appointments of respective successors and of alternate members, both original and successor, shall be for three years. The second term Chairperson shall be selected by the members from one of their number. Any member or alternate member of the Commission so appointed may, after a public hearing if requested, be removed for cause pursuant to the City Charter. A vacancy occurring otherwise than by expiration of a term shall be filled for the unexpired term in the same manner as the original appointment.

II. This ordinance shall take effect upon its passage.

To the Board of Mayor and Aldermen of the City of Manchester:

The Committee on Bills on Second Reading respectfully recommends, after due and careful consideration, that an Ordinance:

"Amending Section 33.025 (Community Health Nurse) of the Code of Ordinances of the City of Manchester."

ought to pass.

(Unanimous vote)

Respectfully submitted,

Le A Bernen

Clerk of Committee

In the year Two Thousand and

five

AN ORDINANCE

"Amending Section 33.025 (Community Health Nurses) of the Code of Ordinances of the City of Manchester."

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

SECTION 33.025 COMPENSATION OF POSITIONS be amended as follows:

Reclassify Community Health Nurses from Grade 17 to Grade 18, Class Code 7070, exempt

This Ordinance shall take effect upon its passage and all Ordinances or parts of Ordinances inconsistent therewith are hereby repealed.

K

To the Board of Mayor and Aldermen of the City of Manchester:

The Committee on Bills on Second Reading respectfully recommends, after due and careful consideration, that an Ordinance:

"Amending the Code of Ordinances of the City of Manchester by adding a new Chapter 54: Storm Water to Title V: Public Works."

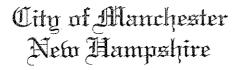
ought to pass, and further that the ordinance be referred to a public hearing to be held on Monday, September 26 at 5:30 PM in the Aldermanic Chambers.

(Unanimous vote)

Respectfully submitted,

Lel Berner

Clerk of Committee



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In the year Two Thousand and Five

AN ORDINANCE

"Amending the Code of Ordinances of the City of Manchester by adding a new Chapter 54: Storm Water to Title V: Public Works."

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

CHAPTER 54: STORM WATER

Section

54.01	Purpose
54.02	Definitions
54.03	Administration
54.04	Prohibited discharges
54.05	Permit procedures and requirements
54.06	General Permit Provisions
54.07	Eligibility
54.08	Waivers
54.09	Storm water design and management standards
54.10	Industrial activity discharges
54.11	Access and inspection of properties and facilities
54.12	Notification of accidental discharges and spills
54.13	Violations, enforcement and penalties

§ 54.01 PURPOSE.

The purpose of this chapter is to:

- (A) Protect, maintain, and enhance the environment of the City of Manchester, New Hampshire and the public health, safety and the general welfare of the citizens of the City, by controlling discharges of pollutants to the City's storm water system and to maintain and improve the quality of the receiving waters into which the storm water outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and groundwater of the City.
- (B) Enable the City of Manchester to comply with the National Pollution Discharge Elimination System permit (NPDES) and applicable regulations, 40 CFR §122.26 for storm water discharges.
- (C) Allow the City of Manchester to exercise the powers granted by the State of New Hampshire through ordinance or resolution to:
- (1) Exercise general regulation over the planning, location, construction, and operation and maintenance of storm water facilities in the City, whether or not owned and operated by the City;



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- (2) Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute, including the adoption of a system of fees for services and permits;
- (3) Establish standards to regulate the quantity of storm water discharged and to regulate storm water contaminants as may be necessary to protect water quality;
- (4) Review and approve plans for storm water management in proposed subdivisions or commercial developments;
- (5) Issue permits for storm water discharges, or for the construction, alteration, extension, or repair of storm water facilities;
- (6) Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit;
- (7) Regulate and prohibit discharges into storm water facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated; and
- (8) Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of storm water contamination, whether public or private.

§54.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BEST MANAGEMENT PRACTICES. Physical, structural, and/or managerial practices that, when used individually or in combination, prevent or reduce pollution of water, that have been approved by the City of Manchester, and that have been incorporated by reference into the Storm Water Rules & Regulations as if fully set out within Section 6: Storm Water System Design and Management Standards of the Storm Water Rules & Regulations.

COMBINED SEWER DRAINAGE SYSTEM. A single pipe conveyance system intended to receive both sewage and storm or surface water.

CONTAMINANT. Any physical, chemical, biological, or radiological substance or matter in water.





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BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

DEPARTMENT OF HIGHWAYS. The Highway Division of the City of Manchester and associated departments including, but not limited to, the Environmental Protection Division (EPD).

DIRECTOR OF PUBLIC WORKS. The Chief Administrator of the Department of Public Works who is authorized to assign Public Works staff to oversee the implementation of the Storm Water Rules & Regulations and the City of Manchester's Storm Water Ordinance.

DISCHARGE. Dispose, deposit, spill, pour, inject, seep, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked or placed by any means including any direct or indirect entry of any solid or liquid matter into the Municipal Separate Storm Sewer System.

ILLICIT CONNECTIONS. Illegal and/or unauthorized connections to the municipal separate storm water system whether or not such connections result in discharges into that system. "Illegal Connection" means either of the following:

- (1) Any pipe, open channel, drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system, regardless of whether such pipe, open channel, drain or conveyance has been previously allowed, permitted, or approved by an authorized enforcement agency; or
- (2) Any pipe, open channel, drain or conveyance connected to the municipal separate storm sewer system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

ILLICIT DISCHARGE. Any discharge to the Municipal Separate Storm Sewer System that is not composed entirely of storm water and not specifically exempted under Section 2(J) of the Storm Water Rules & Regulations.

LAND DISTURBING ACTIVITY. Any activity on property that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to, development, re-development, demolition, construction, reconstruction, clearing, grading, filling and excavation.



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BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4). The conveyances owned or operated by the municipality for the collection and transportation of storm water, including the roads and streets and their drainage systems, catch basins, curbs, gutters, ditches, man-made channels, and storm drains.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT. A permit issued pursuant to 33 USC Section 1342(b) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

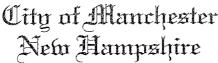
PERSON. Any and all persons, including any individual, firm or association and any city or private corporation organized or existing under the laws of this or any other state or country.

POLLUTANT. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; petroleum hydrocarbons; automotive fluids; cooking grease; detergents (biodegradable or otherwise); degreasers; cleaning chemicals; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects and accumulations, so that same may cause or contribute to pollution; sediment; floatables; pesticides, herbicides, and fertilizers; liquid and solid wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; concrete and cement; and noxious or offensive matter of any kind.

POLLUTION. The contamination or other alteration of any water's physical, chemical or biological properties by the addition of any constituent and includes but is not limited to, a change in temperature, taste, color, turbidity, or odor of such waters, or the discharge of any liquid, gaseous, solid, radioactive, or other substance into any such waters as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety, welfare, or environment, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.

PREMISES. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

STATE WATERS. Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface and subsurface water, natural or artificial, lying within or forming a part of the boundaries of the State of New Hampshire which are not entirely confined and retained completely upon the property of a single person.



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BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

STORM WATER. Storm water runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration and drainage.

STORM WATER APPEALS COMMITTEE. A three-member committee consisting of a Highway Commissioner, an engineer from a private engineering firm and an engineer from the Department of Highways.

STORM WATER MANAGEMENT. The programs to maintain quality and quantity of storm water runoff to pre-development levels.

STORM WATER MANAGEMENT FACILITIES. The drainage structures, conduits, ditches, combined sewers, sewers, and all device appurtenances by means of which storm water is collected, transported, pumped, treated or disposed of.

STORM WATER MANAGEMENT PLAN. The set of drawings and other documents that comprise all the information and specifications for the programs, drainage systems, structures, Best Management Practices, concepts and techniques intended to maintain or restore quality and quantity of storm water runoff to pre-development levels.

STORM WATER POLLUTION PREVENTION PLAN (SWPPP). A plan that clearly describes appropriate control measures that include a description of all pollution control measures (i.e., Best Management Practices) that will be implemented as part of the construction activity to control pollutants in storm water discharges and describes the interim and permanent stabilization practices for the site.

STORM WATER RULES & REGULATIONS. A supplement to the Storm Water Ordinance that includes additional conditions and requirements. Copies are available at the Department of Highways and the Office of the City Clerk.

STORM WATER RUNOFF. Flow on the surface of the ground, resulting from precipitation and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

STORM WATER UTILITY. The Department of Highways and its duly authorized agents created by ordinance of the City to administer the Storm Water Management Ordinance, and other Storm Water Rules and Regulations adopted by the City.

STRUCTURAL BEST MANAGEMENT PRACTICES. Devices that are constructed to provide control of storm water runoff.



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BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

STRUCTURAL STORM WATER CONTROL. A structural storm water management facility or device that controls storm water runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow.

§ 54.03 ADMINISTRATION.

The Director of the Department of Highways or his designee shall administer the provisions of this ordinance and is hereby authorized to promulgate and amend such rules and regulations as may be necessary and convenient to effectuate the purposes and requirements of this ordinance.

§ 54.04 PROHIBITED DISCHARGES.

The specific prohibited discharges outlined in the Storm Water Rules & Regulations are not inclusive of all discharges prohibited by this ordinance and the Storm Water Rules & Regulations.

§ 54.05 PERMIT PROCEDURES AND REQUIREMENTS.

- (A) Permit Required No land owner or land operator shall begin any site work on any building(s), grading or other land development or any land disturbance activities as outlined in Section 3: of the Storm Water Rules & Regulations) without first submitting a Notice of Intent to EPA Region I. Owner must also have received acknowledgement, have an approved Storm Water Pollution Prevention Plan and meet the requirements of this ordinance.
- (B) General Waiver Requirement. Every applicant shall provide for storm water management as required by this ordinance and the Department of Highways Storm Water Rules & Regulations unless a written request is filed to waive this requirement. Requests to waive the Storm Water Management Plan requirements shall be submitted to the Department of Highways for approval.

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BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

(C) Application Requirements - Unless specifically excluded by this ordinance, any landowner or operator desiring a permit for a land disturbance activity (as described in Section 4 of the Storm Water Rules & Regulations) shall secure required approvals through the City of Manchester's Planning Board and shall submit to the Department of Highways a copy of the Notice of Intent and approved Storm Water Pollution Prevention Plan for related project before beginning any site clearing or construction.

Unless otherwise excepted by this ordinance, a permit application must be accompanied by required information as outlined in the Storm Water Rules & Regulations in order that the permit application be considered.

The Storm Water Management Plan shall be prepared to meet the requirements of the City of Manchester's Storm Water Rules & Regulations and any required maintenance agreement shall be prepared to meet those requirements. Any and all fees shall be those established by the Department of Highways.

(D) Application Review Fees – The fee for review of any land development application shall be set by the Director of Public Works and set forth in the Storm Water Rules & Regulations. Fee shall be made prior to the issuance of any building permit for the development.

§ 54.06 GENERAL PERMIT PROVISIONS.

- (A) Land Disturbance permits when required Every owner/operator will be required to obtain an EPA General Permit from the EPA through a Notice of Intent in the following cases:
 - (1) Land disturbing activity disturbs one (1) or more acres of land;
- (2) Land disturbing activity of less than one (1) acre of land if such activity is part of a larger common plan of development that affects one (1) or more acres of land;
- (3) Land disturbing activity of less than one (1) acre of land, if in the discretion of City of Manchester such activity poses a unique threat to water, or public health or safety;
- (4) The creation and use of borrow pits (the excavation of soils from one area to be used in another area that would meet any of the criteria of 1, 2, or 3 above).



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BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

§ 54.07 ELIGIBILITY.

- (A) Permit Eligibility Permit eligibility is limited to discharges from "large" and "small" construction activity or as otherwise designated by the EPA. This general permit contains eligibility restrictions, as well as permit conditions and requirements. Permittee may have to take certain actions to be eligible for coverage under this permit. In such cases, permittee must continue to satisfy those eligibility provisions to maintain permit authorization. If permittee does not meet the requirements that are pre-condition to eligibility, then the resulting discharges constitute unpermitted discharges. By contrast, if permittee does not comply with the requirements of the general permit, permittee may be in violation of the general permit for their otherwise eligible discharges.
- (B) Combined Sewer Drainage Systems Discharges from "large" and "small" construction activity or as otherwise designated by the EPA that flow into a combined sewer system are not covered by the EPA's Phase II Storm Water Program. A Notice of Intent does not need to be submitted to the EPA nor does the owner/operator have to receive acknowledgement from the EPA prior to the start of construction activity.

The City of Manchester is requiring in these instances that all other conditions as outlined in this ordinance or the Storm Water Rules and Regulations shall apply to all construction activity as defined in Section 4 of the Storm Water Rules & Regulations, with the exception of submitting the Notice of Intent to EPA Region I. The requirements for determination of no impact status as outlined in the Endangered Species Act and Historic Preservation Act along with the completion of a Storm Water Pollution Prevention Plan as outlined in the Notice of Intent submission is still a mandatory submission to the City of Manchester and must follow the conditions as outlined in the EPA's Notice of Intent.

§ 54.08 WAIVERS.

Every applicant shall provide for Storm Water Management as required by the Storm Water Rules & Regulations, unless a written request is filed to waive this requirement. Requests to waive the Storm Water Management Program requirements shall be submitted to the Director of Public Works for approval.

§ 54.09 STORM WATER SYSTEM DESIGN AND MANAGEMENT STANDARDS.

The City adopts as its storm water design and Best Management Practices manual those publications referenced in Section 6: Storm Water System Design and Management Standards of the Storm Water Rules & Regulations



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BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

§ 54.10 INDUSTRIAL ACTIVITY DISCHARGES.

All operators of City landfills, hazardous waste treatment, disposal, and recovery facilities and industrial facilities are subject to Section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA) 42, USC § 11023, and industrial facilities that the City determines are contributing a pollutant load to the Municipal Separate Storm Sewer System, which are sources of storm water discharges associated with industrial activity shall comply with the requirements outlined in the City's Storm Water Rules & Regulations.

§ 54.11 ACCESS AND INSPECTION OF PROPERTIES AND FACILITIES.

- (A) The representative of the Department of Highways shall be permitted to enter and inspect properties and facilities at reasonable times as often as may be necessary to determine compliance with this ordinance.
- (B) If a property or facility has security measures in force, which require proper identification and clearance before entry into its premises, the owner or operator shall make the necessary arrangements to allow access to representatives of the Department of Highways.
- (C) The owner or operator shall allow the representative of the Department of Highways ready access to all parts of the premises for the purposes of inspection, sampling, photography, videotaping, examination and copying of any records that are required under the conditions of a National Pollutant Discharge Elimination System Permit to discharge storm water.
- (D) The Department of Highways shall have the right to set up on any property or facility such devices as are necessary in the opinion of the Department of Highways to conduct monitoring and/or sampling of flow discharges.
- (E) The Department of Highways may require the owner or operator to install monitoring equipment and perform monitoring as necessary, and make the monitoring data available to the Department of Highways. This sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the owner or operator at his/her own expense. All devices used to measure flow and quality shall be calibrated to ensure their accuracy.



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BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

(F) Any temporary or permanent obstruction to safe and easy access to the property or facility to be inspected and/or sampled shall be promptly removed by the owner or operator at the written or oral request of the Department of Highways and shall not be replaced. The costs of clearing such access shall be borne by the owner or operator.

§ 54.12 NOTIFICATION OF ACCIDENTAL DISCHARGES AND SPILLS.

Notwithstanding other requirements of law, as soon as any person responsible for a facility, activity or operation, or responsible for emergency response for a facility, activity or operation has information of any known or suspected release of pollutants or non-storm water discharges from that facility or operation which are resulting or may result in illicit discharges or pollutants discharging into storm water, the City of Manchester's separate storm sewer system, State Waters, or Waters of the U.S., said person shall immediately notify the Department of Highways and take all necessary steps to ensure the discovery, containment, and cleanup of such release so as to minimize the effects of the discharge.

§ 54.13 VIOLATIONS, ENFORCEMENT AND PENALTIES.

- (A) Unreasonable delays in allowing the Department of Highways access to a facility shall be a violation of this ordinance.
- (B) If the Department of Highways has been refused access to any part of the premises from which storm water is discharged, and the Department of Highways is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, environment and welfare of the community, then the Department of Highways may seek issuance of a search warrant from any court of competent jurisdiction.
- (C) It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of the City's Storm Water Ordinance or the Storm Water Rules & Regulations. Any person who has violated or continues to violate these provisions may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.

In the event the violation constitutes an immediate danger to public health or public safety, the Department of Highways is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The Department of Highways is authorized to seek costs of the abatement (as outlined in Section 10(E) of the Storm Water Rules & Regulations).

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- (D) Whenever the Department of Highways finds that a violation of this ordinance or the Rules and Regulations has occurred, the Public Works Director or designee may order compliance by written Notice of Violation. The Notice of Violation shall contain:
 - (1) The name and address of the alleged violator;
- (2) The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
 - (3) A statement specifying the nature of the violation;
- (4) A description of the remedial measures necessary to restore compliance with this ordinance and a time schedule for the completion of such remedial action;
- (5) A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed; and,
- (6) A statement that the determination of violation may be appealed to the Department of Highways Storm Water Appeals Committee by filing a written notice of appeal within five (5) days of service of notice of violation.
 - (E) Such notice may require without limitation:
 - (1) The performance of monitoring, analyses, and reporting;
 - (2) The elimination of illicit discharges and illegal connections;
 - (3) That violating discharges, practices, or operations shall cease and desist;
- (4) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
 - (5) Payment of costs to cover administrative and abatement costs; and,
 - (6) The implementation of pollution prevention practices.

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- (F) Appeal of Notice of Violation Any person receiving a Notice of Violation may appeal the determination of the Department of Highways. The appeal must be received within five (5) days from the date of the Notice of Violation. Filing of an appeal does not relieve the owner from full compliance with the remedial actions outlined in the Notice of Violation. Hearing on the appeal before the Department of Highways, Storm Water Appeals Committee shall take place within thirty (30) days from the date of receipt of the appeal. The decision of the Storm Water Appeals Committee shall be final.
- (G) Enforcement Measures After Appeal If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, then representatives of the Department of Highways may enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.
- (H) Costs of Abatement of the Violation Within ten (10) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the assessment or to the amount of the assessment within fifteen (15) days of such notice. If the amount due is not paid within thirty (30) days after receipt of the notice, or if an appeal is taken, within five (5) days after a decision on said appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this article shall become liable to the City of Manchester by reason of such violation.
- (I) Civil Penalties In the event the alleged violator fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within two (2) days, or such greater period as the Department of Highways shall deem appropriate, after the Director of Public Works or designee has taken one or more of the actions described above, the Public Works Director may impose a penalty not to exceed \$10,000 (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.

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- (J) Criminal Penalties For violations of this ordinance or the Storm Water Rules & Regulations, the Director of Public Works may issue a citation to the alleged violator requiring such person to appear in court to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed \$1,000 for each day the violation has occurred, or imprisonment for up to sixty (60) days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.
- (K) Remedies Not Exclusive The remedies listed in this ordinance and the Storm Water Rules & Regulations are not exclusive of any other remedies available under any applicable Federal, State or local law and the City of Manchester may seek cumulative remedies including but not limited to the recovery of attorney's fees, court costs, sampling and monitoring expenses and other expenses associated with enforcement of this ordinance.



Storm Water Rules & Regulations

Note: These Rules & Regulations are prepared as a direct supplement to the City of Manchester's Storm Water Ordinance, Title V, Chapter 54: Storm Water. These Rules & Regulations will incorporate language directly from that Ordinance along with additional conditions and requirements as provided by that Ordinance.

SECTION 1. GENERAL PROVISIONS

Purpose.

It is the purpose of these Rules & Regulations to:

- (A) Protect, maintain, and enhance the environment of the City of Manchester, New Hampshire and the public health, safety and the general welfare of the citizens of the City, by controlling discharges of pollutants to the City's storm water system and to maintain and improve the quality of the receiving waters into which the storm water outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and groundwater of the City.
- (B) Enable the City of Manchester to comply with the National Pollution Discharge Elimination System Permit (NPDES) and applicable regulations, 40 CFR §122.26 for storm water discharges.
- (C) Allow the City of Manchester to exercise the powers granted by the State of New Hampshire through ordinance or resolution to:
 - (1) Exercise general regulation over the planning, location, construction, and operation and maintenance of storm water facilities in the City, whether or not owned and operated by the City;
 - (2) Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute, including the adoption of a system of fees for services and permits;
 - (3) Establish standards to regulate the quantity of storm water discharged and to regulate storm water contaminants as may be necessary to protect water quality;
 - (4) Review and approve plans for storm water management in proposed subdivisions or commercial developments;
 - (5) Issue permits for storm water discharges, or for the construction, alteration, extension, or repair of storm water facilities;
 - (6) Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit;
 - (7) Regulate and prohibit discharges into storm water facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated; and
 - (8) Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of storm water contamination, whether public or private.



Administration.

The Director of the Department of Highways or his designee shall administer the provisions of these Rules & Regulations and is hereby authorized to promulgate and amend such rules and regulations as may be necessary and convenient to effectuate the purposes and requirements of these Rules & Regulations.

Interpretations of Provisions.

The provisions of these Rules & Regulations with respect to the meaning of the technical terms and phrases, the regulations with respect to erosion and sediment control, and other technical matters shall be interpreted and administered by the Public Works Director acting in and for the City, through its Highway Commission.

Definitions.

For the purpose of these Rules & Regulations, the following definitions shall apply: Words used in the singular shall include the plural, and the plural shall include the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined in this section shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

- (1) "Accidental Discharge" means a discharge prohibited by these Rules & Regulations, which occurs by chance, and without planning or thought prior to occurrence.
- (2) "As-built Plans" means drawings depicting conditions as they were actually constructed.
- (3) "Best Management Practices" or BMPs are physical, structural, and/or managerial practices that, when used singly or in combination, prevent or reduce pollution of water, that have been approved by the City of Manchester, and that have been incorporated by reference into these Rules & Regulations as if fully set out therein.
 - [NOTE: See Section 6A(1-4) for recommended BMP manuals.]
- (4) "Channel" means a natural or artificial watercourse with a definite bed and banks that conducts flowing water continuously or periodically.
- (5) "Clean Water Act" means the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.
- (6) "Combined Sewer Drainage System" means a single pipe conveyance system inended to receive both sewage and storm or surface water.
- (7) "Community Water" means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wetlands, wells and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the City of Manchester.
- (8) "Construction Activity" means activities subject to the EPA Phase II Storm Water Program and the NPDES General Construction Permits. These

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- include construction projects resulting in land disturbance. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.
- (9) "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.
- (10) "Department of Highways" (DPW) means the Highway Division of the City of Manchester and associated departments including, but not limited to, the Environmental Protection Division (EPD).
- (11) "Director of Public Works" is the chief administrator of DPW and is authorized to assign DPW staff to oversee the implementation of these Rules & Regulations and the City of Manchester's Storm Water Ordinance.
- (12) "Design Storm Event" means a hypothetical storm event, of a given frequency interval and duration, used in the analysis and design of a storm water facility.
- "Discharge" means dispose, deposit, spill, pour, inject, seep, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means including any direct or indirect entry of any solid or liquid matter into the Municipal Separate Storm Sewer System.
- (14) "Easement" means an acquired privilege or right of use or enjoyment that a person, party, firm, corporation, City or other legal entity has in the land of another.
- (15) "Erosion" means the removal of soil particles by the action of water, wind, ice or other geological agents, whether naturally occurring or acting in conjunction with or promoted by anthropogenic activities or effects.
- (16) "Erosion and Sediment Control Plan" means a written plan (including drawings or other graphic representations) that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.
- (17) "Hotspot" ("Priority Area") means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in storm water.
- (18) "Illicit Connections" means illegal and/or unauthorized connections to the Municipal Separate Storm Water System whether or not such connections result in discharges into that system. "Illegal Connection" means either of the following:
 - a) Any pipe, open channel, drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system, regardless of whether such pipe, open channel, drain or conveyance has been previously allowed, permitted, or approved by an authorized enforcement agency; or b) Any pipe, open channel, drain or conveyance connected to the Municipal Separate Storm Sewer System which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.



- (19) "Illicit Discharge" means any discharge to the Municipal Separate Storm Sewer System that is not composed entirely of storm water and not specifically exempted under Section 2(J).
- (20) "Industrial Activity" means activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).
- "Land Disturbing Activity" means any activity on property that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to, development, re-development, demolition, construction, reconstruction, clearing, grading, filling, and excavation.
- (22) "Maintenance" means any activity that is necessary to keep a storm water facility in good working order so as to function as designed. Maintenance shall include complete reconstruction of a storm water facility if reconstruction is needed in order to restore the facility to its original operational design parameters. Maintenance shall also include the correction of any problem on the site property that may directly impair the functions of the storm water facility.
- (23) "Maintenance Agreement" means a document recorded in the land records that acts as a property deed restriction, and which provides for long-term maintenance of storm water management practices.
- (24) "Municipal Separate Storm Sewer System (MS4)" means the conveyances owned or operated by the municipality for the collection and transportation of storm water, including the roads and streets and their drainage systems, catch basins, curbs, gutters, ditches, man-made channels, and storm drains.
- (25) "National Pollutant Discharge Elimination System Permit" or "NPDES Permit" means a permit issued pursuant to 33 USC § 1342(b) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.
- (26) "Non-Storm Water Discharge" means any discharge to the storm drain system that is not composed entirely of storm water.
- (27) "Off-site Facility" means a structural BMP located outside the subject property boundary described in the permit application for land development activity.
- (28) "On-site Facility" means a structural BMP located within the subject property boundary described in the permit application for land development activity.
- (29) "Peak Flow" means the maximum instantaneous rate of flow of water at a particular point resulting from a storm event.
- (30) "Person" means any and all persons, including any individual, firm or association and any city or private corporation organized or existing under the laws of this or any other state or country.
- "Pollutant" means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; petroleum hydrocarbons; automotive fluids; cooking grease; detergents (biodegradable or otherwise); degreasers; cleaning chemicals; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects and accumulations, so that same may cause or contribute to pollution; sediment; floatables; pesticides, herbicides, and fertilizers; liquid and solid

- wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; concrete and cement; and noxious or offensive matter of any kind.
- (32) "Pollution" means the contamination or other alteration of any water's physical, chemical or biological properties by the addition of any constituent and includes but is not limited to, a change in temperature, taste, color, turbidity, or odor of such waters, or the discharge of any liquid, gaseous, solid, radioactive, or other substance into any such waters as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety, welfare, or environment, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.
- (33) "Premises" means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
- (34) "Priority Area" means "hot spot" as defined in Definitions (17).
- (35) "Runoff" means that portion of the precipitation on a drainage area that is discharged from the area into the Municipal Separate Storm Water System.
- (36) "Sediment" means solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface either above or below sea level.
- (37) "Sedimentation" means soil particles suspended in storm water that can settle in streambeds and disrupt the natural flow of the stream.
- (38) "Soils Report" means a study of soils on a subject property with the primary purpose of characterizing and describing the soils. The soils report shall be prepared by a qualified soils engineer, who shall be directly involved in the soil characterization either by performing the investigation or by directly supervising employees.
- (39) "Stabilization" means providing adequate measures, vegetative and/or structural, that will prevent erosion from occurring.
- (40) "State Waters" means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface and subsurface water, natural or artificial, lying within or forming a part of the boundaries of the State of New Hampshire which are not entirely confined and retained completely upon the property of a single person.
- (41) "Storm Water" means storm water runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration and drainage.
- (42) "Storm Water Appeals Committee" will be a three-member committee consisting of a Highway Commissioner, an engineer from a private engineering firm and an engineer from the Department of Highways.
- (43) "Storm Water Management" means the programs to maintain quality and quantity of storm water runoff to pre-development levels.
- (44) "Storm Water Management Facilities" means the drainage structures, conduits, ditches, combined sewers, sewers, and all device appurtenances by means of which storm water is collected, transported, pumped, treated or disposed of.



- (45) "Storm Water Management Plan" means the set of drawings and other documents that comprise all the information and specifications for the programs, drainage systems, structures, BMPs, concepts and techniques intended to maintain or restore quality and quantity of storm water runoff to pre-development levels.
- (46) "Storm Water Pollution Prevention Plan" (SWPPP) means a plan that clearly describes appropriate control measures that include a description of all pollution control measures (i.e., BMPs) that will be implemented as part of the construction activity to control pollutants in storm water discharges and describes the interim and permanent stabilization practices for the site.
- (47) "Storm Water Runoff" means flow on the surface of the ground, resulting from precipitation and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.
- (48) "Storm Water Utility" means the Department of Highways and its duly authorized agents created by ordinance of the City to administer the Storm Water Management Ordinance, and other Storm Water Rules and Regulations adopted by the City.
- (49) "Structural BMPs" means devices that are constructed to provide control of storm water runoff.
- (50) "Structural Storm Water Control" means a structural storm water management facility or device that controls storm water runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow.
- (51) "Surface Water" includes waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other watercourses, lakes and reservoirs.
- (52) "Watercourse" means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.
- (53) "Watershed" means all the land area that contributes runoff to a particular point along a waterway.

SECTION 2. PROHIBITED DISCHARGES

The specific prohibited discharges in this section are not inclusive of all discharges prohibited by these Rules & Regulations.

- (A) <u>Violation of Water Quality Standard.</u> No person shall introduce or cause to be introduced into the Municipal Separate Storm Sewer System (MS4) any discharge that causes or contributes to causing the City to violate a water quality standard, the City's NPDES permit, or any state-issued discharge permit for discharges from its MS4.
- (B) <u>Introduction of Prohibited Substances</u>. No person shall dump, spill, leak, pump, pour, emit, empty discharge, leach, dispose, or otherwise introduce or cause, allow, or permit to be introduced any of the following substances into the MS4.
 - (1) Any new or used motor oil, antifreeze, or other motor vehicle fluid;

- (2) Any industrial wastes;
- (3) Any hazardous waste, including hazardous household waste;
- (4) Any domestic sewage or septic tank waste, grease trap waste, or grit trap waste;
- (5) Any garbage, rubbish or yard waste;
- (6) Any wastewater from a commercial carwash facility; from any vehicle washing, cleaning or maintenance at any new or used automobile, or other vehicle dealership, rental agency, body shop, repair shop, or maintenance facility; or from any washing, cleaning or maintenance of any business or commercial or public service vehicle, including truck, bus, or heavy equipment, by a business or public entity that operates more than two such vehicles;
- (7) Any wastewater from the washing, cleaning, de-icing, or other maintenance of aircraft;
- (8) Any wastewater from commercial mobile power washer or from the washing or other cleaning of a building exterior that contains any soap, detergent, degreaser, solvent, or any other harmful cleaning substance;
- (9) Any wastewater from any floor, rug or carpet cleaning;
- (10) Any wastewater from the wash down or other cleaning of pavement that contains any harmful quantity of soap, detergent, solvent, degreaser, emulsifier, dispersant, or any other harmful cleaning substance; or any wastewater from the wash down or other cleaning of any pavement where any spill, leak, or other release of oil, motor fuel, or other petroleum or hazardous substance has occurred, unless all harmful quantities of such released material have been previously removed;
- (11) Any effluent from a cooling tower, condenser, compressor, emissions scrubber, emissions filter, or the blowdown from a boiler;
- (12) Any ready-mixed concrete, mortar, ceramic, or asphalt base material or hydro mulch material, or from the cleaning of commercial vehicles or equipment containing, or used in transporting or applying, such material;
- (13) Any runoff or wash down water from any animal pen, kennel, or foul or livestock containment area;
- (14) Any filter backwash from a swimming pool, fountain or spa;
- (15) Any swimming pool water containing any harmful quantity of chlorine, muriatic acid or other chemical used in the treatment or disinfection of the swimming pool water or in the pool cleaning;
- (16) Any water from a water curtain in a spray room used for painting vehicles or equipment;
- (17) Any contaminated runoff from a vehicle wrecking yard;
- (18) Any substance or material that will damage, block, or clog the MS4;
- (19) Any release from a petroleum storage tank, or any leachate or runoff from soil contaminated by a leaking petroleum storage tank, or any discharge of pumped, confined, or treated waste water from the remediation of any such petroleum storage tank release, unless it complies with state and federal standards and does not contain any harmful quantity of any pollutant;
- (20) Any pet waste as outlined in the Manchester Ordinance §90.04



- (C) <u>Introduction of Earth-type Materials</u>. No person shall introduce or cause to be introduced into the MS4 any harmful quantity of sediment, silt, earth, soil, or other material associated with cleaning, grading, excavation or other construction activities, (or associated with landfilling or other placement or disposal of soil, rock, or other earth materials) in excess of what could be retained on site or captured by employing sediment and erosion control measures to the maximum extent practicable (under the prevailing circumstances).
- (D) <u>Introduction of Sewage and Grey Water</u>. No person shall connect a line conveying sanitary sewage, domestic or industrial, to the MS4; this includes gray water discharge such as washing machine discharge, sink drains, floor drains, etc. or allow such a connection to continue.
- (E) <u>Service Station Pavement Wash Water</u>. No person shall cause or allow any pavement wash water from a service station to be discharged into the MS4 unless such wash water has passed through a properly functioning and maintained, grease, oil, and sand interceptor before discharge into the MS4.
- (F) Pesticide and Herbicide Use. No person shall use or cause to be used any pesticide or herbicide contrary to any directions for use on any labeling required by state or federal statute or regulation. Any use of any pesticide, herbicide, or fertilizer in any manner that the person knows, or reasonably should know, is likely to cause, or does cause, a harmful quantity of the pesticide, herbicide, or fertilizer to enter the MS4 or waters of the United States.
- (G) <u>Disposal of Pesticide and Herbicide</u>. No person shall dispose of, discard, store, or transport a pesticide, herbicide, or fertilizer, or a pesticide, herbicide, or a fertilizer container, in a manner that the person knows, or reasonably should know, is likely to cause, or does cause, a harmful quantity of the pesticide, herbicide, or fertilizer to enter the MS4 or waters of the United States.
- (H) <u>Storage of Trash, Toxic Substances and Hazardous Wastes</u>. No person shall allow trash and debris to stand on property or collect on property and prohibit the storage of toxic or hazardous substances on property so as to allow exposure to precipitation and storm water runoff, which can affect storm water discharge to the MS4 or adjacent water table.
- (I) <u>Litter of Urban Ponds, Lakes, Streams or River Banks</u>. Any residential, commercial or industrial property boundary, located within 150 feet of any pond, lake, stream or river bank, shall assure that trash, debris, materials, containers, grass clippings, leaf and yard waste, wood chips, material used for cover or any such other material, does not litter this buffer area by means natural (wind or storm movement of material), by the careless discard of such material, or by any other means that displaces these objects from the owner's property boundary to anywhere within this 150 foot buffer zone area. All such violations will be addressed first through written notification with a time frame for clean

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up. If the clean up is not completed in the time frame stated, then the City will continue escalated enforcement as outlined in the penalty section of these Rules & Regulations.

- (J) <u>Allowable Discharges</u>. Notwithstanding any provisions to the contrary, the following types of discharges into the storm drain system are exempt from the prohibitions set herein:
 - (1) Watering of lawns, landscaping and gardens;
 - (2) Washing of personal motor vehicles by residents;
 - (3) Draining of water from swimming pools or spas, after chlorine content of such water according to a test kit, shows a zero reading of chlorine;
 - (4) Flushing of water lines or other discharges from potable water sources:
 - (5) Flows from fire fighting activities:
 - (6) Managed minimal amounts of air conditioning condensation;
 - (7) Uncontaminated pumped groundwater;
 - (8) Discharges from rising ground waters, springs, and flows from riparian habitats and wetlands.

SECTION 3. PERMIT PROCEDURES AND REQUIREMENTS

- (A) Permit Required. No land owner or land operator shall begin any site work on any building(s), grading or other land development or any land disturbance activities without first submitting a Notice of Intent (NOI) to EPA Region I. Owner must also have received an acknowledgement, have an approved Storm Water Pollution Prevention Plan (SWPPP) and meet the requirements of the Storm Water Ordinance and these Rules & Regulations.
- (B) Application Requirements. Unless specifically excluded by the ordinance and these Rules & Regulations, any landowner or operator desiring a permit for a land disturbance activity (as described in Section 4(A)) shall secure required approvals through the City of Manchester's Planning Department/Board and shall submit to the Department of Highways a copy of the NOI and approved SWPPP for related project before beginning any site clearing or construction.

Unless otherwise excepted by these Rules & Regulations, a permit application must be accompanied by the following in order that the permit application be considered: a storm water management concept plan; a maintenance agreement; and a non-refundable permit review fee.

The Storm Water Management Plan shall be prepared to meet the requirements of Section 4B(2b) of these Rules & Regulations. The maintenance agreement may be prepared to meet the requirements of these Rules & Regulations and fees may be those established by the Department of Highways.



- (C) The Department of Highways May Establish Application Review Fees. The fee for review of any land development application shall be established by the Director of Public Works and must be paid before site construction begins. Any fee schedule is included as an appendix to these Rules & Regulations.
- (D) <u>Application Procedure</u>. The following application procedure will apply for any construction project, whether a new development or redevelopment as outlined within these Rules & Regulations:
 - (1) Applications for land disturbance activity permits must be filed with the City of Manchester's Planning Department on any regular business day.
 - (2) A copy of this permit application shall be forwarded to the Department of Highways for review.
 - (3) Permit applications shall include the following before all final approvals are given by the City of Manchester: two copies of the Storm Water Pollution Prevention Plan, two copies of the maintenance agreement, and any required review fees.
 - (4) Within thirty (30) business days of the receipt of a complete permit application, including all documents as required by these Rules & Regulations, Manchester's Planning Department shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved.
 - (5) If the permit application, Storm Water Pollution Prevention Plan or maintenance agreement are disapproved, the applicant may revise the Storm Water Pollution Prevention Plan or agreement. If additional information is submitted, the Planning Board and Department of Highways shall have thirty (30) business days from the date the additional information is received to inform the applicant that the plan and maintenance agreement are either approved or disapproved.
 - (6) If the permit application, final Storm Water Pollution Prevention Plan and maintenance agreement are approved by the Planning Department/Board and Department of Highways, all appropriate land disturbance activity permits shall be issued.
- (E) <u>Permit Duration.</u> Permits issued under this section shall be valid from the date of issuance through the date as outlined in Section 4(E).

SECTION 4. GENERAL PERMIT PROVISIONS

(A) Land Disturbance Permits.

When required, every owner/operator will be required to obtain an EPA General Permit from the EPA through a Notice of Intent (NOI) in the following cases:

- (1) Land disturbing activity disturbs one (1) or more acres of land;
- (2) Land disturbing activity of less than one (1) acre of land if such activity is part of a larger common plan of development that affects one (1) or more acres of land;
- (3) Land disturbing activity of less than one (1) acre of land, if in the discretion of City of Manchester such activity poses a unique threat to water, or public health or safety;

(4) The creation and use of borrow pits (the excavation of soils from one area to be used in another area that meets any of the criteria of 1, 2, and 3 above).

(B) Application for a Land Disturbance Permit.

- (1) Each application shall include the following:
 - (a) Name of applicant;
 - (b) Business or residence address of applicant;
 - (c) Name, address and telephone number of the owner of the property of record in the office of the assessor of property;
 - (d) Address and legal description of subject property including the tax reference number and parcel number of the subject property;
 - (e) Name, address and telephone number of the contractor and any subcontractor(s) who shall perform the land disturbing activity and who shall implement the erosion and sediment control plan and SWPPP;
 - (f) A statement indicating the nature, extent and purpose of the land disturbing activity including the size of the area for which the permit shall be applicable and a schedule for the starting and completion dates of the land disturbing activity.
 - (g) The applicant shall obtain from any other state or federal agency any other appropriate environmental permits that pertain to the property. However, the inclusion of those permits in the application shall not foreclose the City of Manchester from imposing additional development requirements and conditions, commensurate with this ordinance, on the development of property covered by those permits.
- (2) Each application shall be accompanied by:
 - (a) A sediment and erosion control plan.
 - (b) A Storm Water Pollution Prevention Plan (SWPPP) providing for storm water management during the land disturbing activity and after the activity has been completed. The SWPPP shall be prepared, signed, and sealed by a Registered Professional Engineer (the signature and seal of the Registered Professional Engineer shall constitute his/her attestation that the SWPPP fully complies with the requirements of the Construction General Permit, or with any applicable individual or group NPDES permit issued for storm water discharges from the construction site, and with any additional requirement imposed by these Rules & Regulations) and shall provide the following Best Management Practices (BMP) measures:
 - (c) Ensure existing vegetation is preserved where feasible;



- (d) Disturbed portions of the site are stabilized as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased;
- (e) In no case shall a construction site have more than 5 acres of unstabilized area at one time;
- (f) Use of structural practices to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants for the site to the extent feasible;
- (g) Minimize the tracking of sediments off-site by vehicles;
- (h) Minimize the generation of dust or other windblown waste from the site;
- (i) Prevent the discharge of building materials to include cement, lime, concrete, and mortar to the MS4 or waters of the United States:
- (j) Provide general good housekeeping measures to prevent and contain spills and assure the proper cleanup and disposal of any such spills in compliance with state, federal and local requirements;
- (k) Implementation of proper waste disposal and waste management techniques, including covering waste materials and minimizing ground contact with hazardous chemicals and trash;
- (1) Timely maintenance of vegetation, erosion and sediment control measures and other BMPs in good and effective operating condition:
- (m) Installation of structural measures during the construction process to control pollutants in storm water discharges that will occur after construction operations have been completed.
- (C) <u>Storm Water Pollution Prevention Plan (SWPPP)</u>. The SWPPP shall be updated and modified as appropriate and as required by the Construction General Permit and these Rules & Regulations. Any update or modification to the SWPPP shall be prepared, signed, and sealed by a Registered Professional Engineer.

All contractors and subcontractors identified in a SWPPP shall sign a copy of the following certification statement before conducting any professional service identified in the SWPPP.

"I certify under penalty of law that I understand the terms and conditions of the National Pollutant Discharge Elimination System (NPDES) permit that authorizes the storm water discharges associated with industrial activity from the construction site identified as part of this certification, with the Storm Water Ordinance of the City of Manchester, New Hampshire, and with those provisions of the Storm Water Pollution Prevention Plan (SWPPP) for the construction site for which I am responsible."

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This certification must include the name and title of the person providing the signature; the name, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made. The SWPPP with Engineers seal and signature and the certifications of contractors and subcontractors shall be retained at the construction site from the date of commencement of construction through the date of final stabilization. A copy must also be made available to the City of Manchester's Department of Highways.

Each application for a land disturbance permit shall be accompanied by payment of land disturbance permit and other storm water management fees, which shall be set in the Rules & Regulations.

(D) Review and Approval of Application.

- (1) The Planning Department and Department of Highways will review each application for a land disturbance permit to determine its conformance with the provisions of these Rules & Regulations. Within thirty (30) days after receiving an application, the Planning Department shall provide one of the following responses in writing:
 - (a) Approval of the permit application;
 - (b) Approval of the permit application, subject to such reasonable conditions as may be necessary to secure substantially the objectives of this ordinance, and issue the permit subject to these conditions; or
 - (c) Denial of the permit application, indicating the reason(s) for the denial.
- (2) If the Planning Department/Board has granted conditional approval of the permit, the applicant shall submit a revised plan that conforms to the conditions established by the Planning Department/Board. However, the applicant shall be allowed to proceed with his land disturbing activity so long as it conforms to conditions established by the Planning Department/Board.
- (3) No development plans will be released until the land disturbance permit has been approved.

(E) Permit Duration.

Every land disturbance permit shall expire and become null and void if substantial work authorized by such permit has not commenced within one hundred eighty (180) calendar days of issuance, or is not complete within eighteen (18) months from the date of the commencement of construction (unless construction extension is granted by the Planning Board).

(F) Notice of Construction. The applicant must notify the Department of Highways ten (10) working days in advance of the commencement of construction. The Owner/Operator/Contractor shall conduct regular inspections of the storm water management system construction. Inspections shall be performed on all areas that have



not had final stabilization, areas used for storage of materials that are exposed to precipitation, structural control measures, locations where vehicles enter and exit the construction site, open manholes and piping that could collect sediment and other controls as outlined in the SWPPP. All inspections shall take place after any rainstorm that is 0.5 inches of rain or greater and once every seven days. These inspections must be documented and written reports prepared that contain the following information:

- (1) The date and location of the inspection;
- (2) Whether construction is in compliance with the approved Storm Water Pollution Prevention Plan;
- (3) Variations from the approved construction specifications;
- (4) Any violations that exist.
- (G) <u>Joint Responsibility.</u> Any contractor or subcontractor on a site of construction activity, who is not an owner or operator, but who is responsible under his/her contract or subcontract for implementing a best management practices control measure(s), is jointly and severally responsible for any willful or negligent failure on his/her part to adequately implement that control measure (if such failure causes or contributes to causing the City to violate a water quality standard, the City's NPDES permit, or any State-issued discharge permit for discharges from its MS4).
- (H) <u>Final Stabilization</u>. When a site has been finally stabilized and all storm water discharges from construction activities that are authorized by these Rules & Regulations and by the NPDES permit for those construction activities are eliminated, or where the operator of all storm water discharges at a facility changes, the operator of the construction site shall submit to the City's Department of Highways a copy of the NPDES Notice of Termination (NOT) of coverage under a NPDES General Permit for Storm Water Discharges. If the construction activity was performed in a combined sewer area of the City, the Notice of Termination need only be filed with the City of Manchester.

Upon final stabilization of the construction site, the owner (or duly authorized representative thereof) by submission of the NOT written certification to the Director of Public Works is certifying that the site has been finally stabilized. The City may withhold an occupancy or use permit for any premises constructed on the site until such certification of final stabilization has been filed and the Director of Public Works has determined, following any appropriate inspection, that final stabilization has, in fact, occurred and that any required permanent structural controls have been completed.

The operator shall retain copies of any SWPPP, certifications and all reports required by these Rules & Regulations or by the NPDES permit for the site, and records of all data used to complete the NOI, for a period of at least three years from the date that the site is finally stabilized.

The operator shall assure that the City of Manchester's Department of Highways is given two full sets of as-builts of the completed project. These must be received within forty-five (45) days of the submission of the NOT. If these as-builts are not received by the City, then the City may draw funds from any retainage, performance or security bonds to

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have an engineer complete the as-builts from the field notes with all costs being borne by the operator.

Within thirty (30) days of the submission of the NOT the operator's construction site must be cleaned and free of any residual stock piles of materials, hay bales, silt fences or any such BMPs that were used for site erosion and sediment controls. If these are not completed the City may draw funds from any retainage, performance, or security bonds to have a contractor complete the clean up and close out any remaining site stabilization.

(I) <u>Performance Bonds</u>.

- (1) The Department of Highways may, at its discretion, require the submittal of a performance security or performance bond prior to issuance of a permit in order to ensure that the storm water practices are installed by the permit holder as required by the approved Storm Water Management Plan. The amount of the installation performance security or performance bond shall be the total estimated construction cost of the structural BMPs approved under the permit plus any reasonably foreseeable additional related costs, e.g., for damages or enforcement. [Or plus a certain percentage of the total estimated costs.] The performance security shall contain forfeiture provisions for failure to complete work specified in the Storm Water Management Plan. The applicant shall provide an itemized construction cost estimate complete with unit prices, which shall be subject to acceptance, amendment or rejection by the Department of Highways. Alternatively the Department of Highways shall have the right to calculate the cost of construction cost estimates.
- The performance security or performance bond shall be released in full only upon submission of as-built plans and written certification by a registered professional engineer licensed to practice in the State of New Hampshire that the structural BMP has been installed in accordance with the approved plan and other applicable provisions of these Rules & Regulations. The Department of Highways will make a final inspection of the structural BMP to ensure that it is in compliance with the approved plan and the provisions of these Rules & Regulations. Provisions for a partial pro-rata release of the performance security or performance bond based on the completion of various development stages can be made at the discretion of the Department of Highways.

SECTION 5. WAIVERS

- (A) <u>General</u>. Every applicant shall provide for storm water management as required by the ordinance and its Rules & Regulations unless a written request to waive the requirement has been filed with and approved by the Director of Public Works.
- (B) <u>Conditions for Waiver</u>. The minimum requirements for storm water management may be waived in whole or in part upon written request of the applicant, provided that at least one of the following conditions applies:



- (1) It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of these Rules & Regulations.
- (2) Alternative minimum requirements for on-site management of storm water discharges have been established in a Storm Water Management Plan that has been approved by the Department of Highways.
- (3) Provisions are made to manage storm water by an off-site facility. The off-site facility must be in place and designed to provide the level of storm water control that is equal to or greater than that which would be afforded by on-site practices. Further, the facility must be operated and maintained by an entity that is legally obligated to continue the operation and maintenance of the facility.
- (C) <u>Downstream Damage, etc. Prohibited.</u> In order to receive a waiver, the applicant must demonstrate to the satisfaction of the Department of Highways that the waiver will not lead to any of the following conditions downstream:
 - (1) Deterioration of existing culverts, bridges, dams, and other structures;
 - (2) Degradation of biological functions or habitat;
 - (3) Accelerated streambank or streambed erosion or siltation;
 - (4) Increased threat of flood damage to public health, life or property.
- (D) <u>Land Disturbance Permit Not to be Issued Where Waiver Requested.</u> No land disturbance permit shall be issued where a waiver has been requested until the waiver is granted. If no waiver is granted, the plans must be resubmitted with a Storm Water Management Plan.

SECTION 6. STORM WATER SYSTEM DESIGN AND MANAGEMENT STANDARDS

Storm Water Design or Best Management Practices Manual.

- (A) Adoption. The City adopts as its storm water design and Best Management Practices (BMP) manual the following publications, which are incorporated by reference in these Rules & Regulations as is fully set out herein:
 - (1) New Hampshire Department of Environmental Services Sediment and Erosion Control Manual, "Green Book" (also known as the Rockingham County "Storm Water Management and Erosion Control Handbook for Urban and Developing Areas");
 - (2) The City of Manchester's "Standard Specifications for Road, Drain & Sewer Construction";
 - (3) "Innovative Stormwater Treatment Technologies" Best Management Practices Manual NHDES, May 2002; and
 - (4) "New Hampshire DOT Guidelines for Temporary Erosion and Sediment Control and Storm Water Management" NHDOT Bureau of Construction.

SECTION 7. INDUSTRIAL ACTIVITY DISCHARGES

All operators of City landfills, hazardous waste treatment, disposal, and recovery facilities and industrial facilities are subject to Section 313 of Title III of the Superfund

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Amendments and Reauthorization Act of 1986 (SARA) 42, USC § 11023; and industrial facilities that the City determines are contributing a pollutant load to the MS4, which are sources of storm water discharges associated with industrial activity shall comply with the following requirements:

- (A) Any operator who intends to obtain coverage for storm water discharge associated with industrial activity under the NPDES General Permit for Storm Water Discharges Associated with Industrial Activity ("the Industrial General Permit") shall submit a signed copy of its NOI to the Director of Public Works at least five (5) days prior to the commencement of the industrial activity at the facility. If industrial activity is already underway upon the effective date of the Storm Water Ordinance, the NOI shall be submitted within thirty (30) days.
- (B) A SWPPP shall be prepared and implemented in accordance with the requirements of the Industrial General Permit or any individual or group NPDES permit issued for storm water discharges from the industrial facility, and with any additional requirement imposed by or under these Rules & Regulations.
- (C) The SWPPP shall be prepared, signed and sealed by a Registered Professional Engineer as outlined in Section 4(B2).
 - (1) Qualified personnel (provided by the operator) shall conduct comprehensive site compliance evaluations as required by Part IV.D.4 of the Industrial General Permit at intervals of no less than once per year. Based on the results of the compliance prevention measures and controls identified in the SWPPP shall be revised as appropriate within two weeks of such evaluation and shall provide for implementation of any changes to the SWPPP in a timely manner, but in no case more than twelve weeks after the compliance evaluation.
 - A report summarizing the scope of the comprehensive site compliance evaluation required by paragraph VI.A.14, personnel making the compliance inspection, the date(s) of the inspection, major observations relating to the implementation of the SWPPP, and actions taken in accordance with necessary and appropriate plan revisions shall be made and retained as part of the SWPPP for at least one year after all storm water discharges from the facility are eliminated and the required NOT has been submitted. The report shall identify any incidence of noncompliance; or, if the report does not identify any incidence of noncompliance, the report shall contain a certification that the facility is in compliance with the SWPPP, the applicable NPDES permit, and these Rules & Regulations. The individual responsible for the comprehensive site compliance evaluation shall sign the report, and it shall be submitted to the City's Director of Public Works within ten days of completion.
 - (3) If the industrial facility is required by Part VI.B.2 of the Industrial General Permit to conduct semi-annual monitoring, a signed copy of each semi-annual monitoring report prepared in accordance with Part VI.D. shall be submitted to the Director of Public Works.
 - (4) By written notice, the Director of Public Works may require any industrial facility identified in accordance with this Section 6 to implement a monitoring program

that includes the submission of quantitative data on the following constituents; any pollutants limited in effluent guidelines subcategories, where applicable; any pollutant listed in an existing NPDES permit for the facility, oil and grease, COD, pH, BOD5, TSS, Total phosphorus, total Kjeldahl nitrogen, nitrate plus nitrite nitrogen, and any information on discharges required under 40 CFR 122.21(g)(7)(iii) and (iv). The Public Works Director may require written reports of any such monitoring to be submitted to him/her.

- (5) No discharge shall exceed the maximum allowable concentrations as outlined in the New Hampshire Env-Ws 1700 Surface Water Quality Regulations.
- (6) Where all storm water discharges associated with industrial activity that are authorized by the Storm Water Ordinance, and by the NPDES permit for those discharges forms industrial activities, are eliminated, or where the operator of storm water discharges associated with industrial activity at a facility changes, the operator of the facility shall submit to the Director of Public Works a Notice of Termination that includes the information required for Notices of Termination by Part IX of the Industrial General Permit.

SECTION 8. ACCESS AND INSPECTION OF PROPERTIES AND FACILITIES

- (A) The representative of the Department of Highways shall be permitted to enter and inspect properties and facilities at reasonable times as often as may be necessary to determine compliance with these Rules & Regulations.
- (B) If a property or facility has security measures in force, which require proper identification and clearance before entry into its premises, the owner or operator shall make the necessary arrangements to allow access to representatives of the Department of Highways.
- (C) The owner or operator shall allow the representative of the Department of Highways ready access to all parts of the premises for the purposes of inspection, sampling, photography, videotaping, examination and copying of any records that are required under the conditions of an NPDES permit to discharge storm water.
- (D) The Department of Highways shall have the right to set up on any property or facility such devices as are necessary in the opinion of the Department of Highways to conduct monitoring and/or sampling of flow discharges.
- (E) The Department of Highways may require the owner or operator to install monitoring equipment and perform monitoring as necessary, and make the monitoring data available to the Department of Highways. This sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the owner or operator at his/her own expense. All devices used to measure flow and quality shall be calibrated to ensure their accuracy.



- (F) Any temporary or permanent obstruction to safe and easy access to the property or facility to be inspected and/or sampled shall be promptly removed by the owner or operator at the written or oral request of the Department of Highways and shall not be replaced. The costs of clearing such access shall be borne by the owner or operator.
- (G) Unreasonable delays in allowing the Department of Highways access to a facility shall constitute a violation of this ordinance.
- (H) If the Department of Highways has been refused access to any part of the premises from which storm water is discharged, and the Department of Highways is able to demonstrate probable cause to believe that there may be a violation of these Rules & Regulations, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with these Rules & Regulations or any order issued hereunder, or to protect the overall public health, safety, environment and welfare of the community, then the Department of Highways may seek issuance of a search warrant from any court of competent jurisdiction.

SECTION 9. NOTIFICATION OF ACCIDENTAL DISCHARGES AND SPILLS

- (A) Notification. Notwithstanding other requirements of law, as soon as any person responsible for a facility, activity or operation, or responsible for emergency response for a facility, activity or operation has information of any known or suspected release of pollutants or non-storm water discharges from that facility or operation which are resulting or may result in illicit discharges or pollutants discharging into storm water, the City of Manchester's separate storm sewer system, State Waters, or Waters of the U.S., said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release so as to minimize the effects of the discharge.
- (B) Release Reporting. Any person in charge of any facility, vehicle, or other source of any spilling, leaking, pumping, pouring, emitting, emptying, discharging, escaping, leaching, dumping, disposing or any other release of any substances that may flow, leach, enter, or otherwise be introduced into the MS4 or waters of the United States, shall immediately telephone and notify the City of Manchester. Substances include any reportable quantity as outlined in 40 CFR Part 302; any extremely hazardous substance as established under 40 CFR Part 355, any oil that causes a film or sheen or discolors the surface of the water or causes a sludge emulsion to be deposited beneath the surface of the water or any harmful quantity of pollutant.
- (C) <u>Immediate Notification Required.</u> The immediate notification to the Department of Highways or the authorized enforcement agency in person or by phone, or facsimile no later than 24 hours of any incident outlined in Section 9(B), of the nature, quantity and time of occurrence of the discharge. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Director of Public Works or his duly authorized agent within three (3) business days of the phone or in person notice and shall include the chemical or substance name, exact location of release, time and duration



of release, estimated quantity and concentration of release, source of release, precautions that should be taken in regards to release, steps taken to contain and /or clean up release and the telephone numbers of the person or persons to be contacted for further information.

If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years. Said person shall also take immediate steps to ensure no recurrence of the discharge or spill. This information shall also be submitted in written form within five (5) days of the incident unless waived by a representative of the City.

(D) <u>Liability for Damage and Loss.</u> The notifications required in Section 9(B&C) shall not relieve the responsible person of any expense, loss, damage or other liability which may be incurred as a result of the release. This includes liability for damage to the City, to natural resources, or to any other person or property; nor shall such notification relieve the responsible person of any fine, penalty, or other liability which may be imposed pursuant to the Storm Water Ordinance, these Rules and Regulations, or to state or federal law. Any person responsible for a release shall comply with all state, federal, and any other local requiring reporting, cleanup, containment, and any other appropriate remedial action in response to the release. The responsible person shall reimburse the City for any cost incurred by the City in responding to the release.

Failure to provide notification of a release as provided above is a violation of the City of Manchester's Storm Water Ordinance.

SECTION 10. VIOLATIONS, ENFORCEMENT AND PENALTIES

- (A) <u>Violations.</u> It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of the City's Storm Water Ordinance or these Rules & Regulations. Any person who has violated or continues to violate these provisions may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.
 - In the event the violation constitutes an immediate danger to public health or public safety, the Department of Highways is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The Department of Highways is authorized to seek costs of the abatement as outlined in Section 10(E).
- (B) <u>Notice of Violation.</u> Whenever the Department of Highways finds that a violation of the ordinance or these Rules & Regulations has occurred, the Public Works Director or designee may order compliance by written notice of violation.
 - (1) The notice of violation shall contain:



- (a) The name and address of the alleged violator;
- (b) The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
- (c) A statement specifying the nature of the violation;
- (d) A description of the remedial measures necessary to restore compliance with this ordinance and a time schedule for the completion of such remedial action:
- (e) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed; and,
- (f) A statement that the determination of violation may be appealed to the Highway Commission by filing a written notice of appeal within five (5) days of service of notice of violation.
- (2) Such notice may require without limitation:
 - (a) The performance of monitoring, analyses, and reporting;
 - (b) The elimination of illicit discharges and illegal connections;
 - (c) That violating discharges, practices, or operations shall cease and desist;
 - (d) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
 - (e) Payment of costs to cover administrative and abatement costs; and.
 - (f) The implementation of pollution prevention practices.
- (C) Appeal of Notice of Violation. Any person receiving a Notice of Violation may appeal the determination of the Department of Highways. The notice of appeal must be received within five (5) days from the date of the Notice of Violation. Filing of an appeal does not relieve the owner from full compliance with the remedial actions outlined in the Notice of Violation. Hearing on the appeal before the Department of Highways, Storm Water Appeals Committee shall take place within thirty (30) days from the date of receipt of the appeal. The decision of the Committee shall be final.
- (D) Enforcement Measures After Appeal. If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, then representatives of the Department of Highways may enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.
- (E) Costs of Abatement of the Violation. Within ten (10) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the assessment or to the amount of the assessment within fifteen (15) days of such notice. If the amount due is not paid within thirty (30) days after receipt of the notice, or if an appeal is taken, within five (5) days after a decision on said appeal, the charges shall



become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

Any person violating any of the provisions of this article shall become liable to the City of Manchester by reason of such violation.

- (F) <u>Civil Penalties</u>. In the event the alleged violator fails to take the remedial measures set forth in the Notice of Violation or otherwise fails to cure the violations described therein within two (2) days, or such greater period as the Department of Highways shall deem appropriate, after the Director of Public Works or designee has taken one or more of the actions described above, the Public Works Director may impose a penalty not to exceed \$10,000 (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.
- (G) <u>Criminal Penalties</u>. For intentional and flagrant violations of the Storm Water Ordinance or these Rules & Regulations, the Director of Public Works may issue a citation to the alleged violator requiring such person to appear in court to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed \$1,000 for each day the violation has occurred, or imprisonment for up to sixty (60) days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.
- (H) Remedies Not Exclusive. The remedies listed in the Storm Water Ordinance and these Rules & Regulations are not exclusive of any other remedies available under any applicable Federal, State or local law and the City of Manchester may seek cumulative remedies.

The City of Manchester may recover attorney's fees, court costs, and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

SECTION 11. ELIGIBILITY

- (A) Permit Eligibility. Permit eligibility is limited to discharges from "large" and "small" construction activity or as otherwise designated by the EPA. This general permit contains eligibility restrictions, as well a permit conditions and requirements. Permittee may have to take certain actions to be eligible for coverage under this permit. In such cases, permittee must continue to satisfy those eligibility provisions to maintain permit authorization. If the permittee does not meet the requirements that are pre-condition to eligibility, then the resulting discharges constitute unpermitted discharges. By contrast, if permittee does not comply with the requirements of the general permit, permittee may be in violation of the general permit for their otherwise eligible discharges.
- (B) <u>Combined Sewer Drainage Systems.</u> Discharges from "large" and "small" construction activity or as otherwise designated by the EPA that flow into a combined sewer system are



not covered by the EPA's Phase II Storm Water Program. A NOI does not need to be submitted to the EPA nor does the owner/operator have to receive acknowledgement from the EPA prior to the start of construction activity.

The City of Manchester is requiring in these instances that all other conditions as outlined in the Storm Water Ordinance and these Rules & Regulations shall apply to all construction activity as defined in Section 4, with the exception of submitting the NOI to EPA Region I. The requirements for determination of no impact status as outlined in the Endangered Species Act and Historic Preservation Act, along with the completion of a Storm Water Pollution Prevention Plan as outlined in the NOI submission is still a mandatory submission to the City of Manchester and must follow the conditions as outlined in the EPA's NOI.

EPA reissued the Construction General Permit (CGP) on July 1, 2003. The reissued CGP now covers both the Phase I large construction sites greater than five acres and "Storm Water Associated with Small Construction Activity," which includes construction sites from one to five acres (or smaller than one acre if part of a larger "common plan of development or sale" that totals one acre). The permit contains conditions to protect endangered species and historic properties and requires the owner and operator of the construction site to, among other things:

- o Develop and implement a Storm Water Pollution Prevention Plan (SWPPP).
- o Post a visible public notice at the main entrance of the construction site (or if unfeasible, at a local public building) containing confirmation of permit coverage and details on where the SWPPP may be viewed.
- o As part of the SWPPP, develop a site map showing surface waters, disturbed areas, best management practices (BMPs), etc.
- Have "qualified personnel" inspect all erosion and sediment control BMPs, maintain BMPs after storm events and keep records in the SWPPP of all inspections and maintenance performed.
- Control wastes, such as discarded building materials, concrete truck washout, and sanitary wastes.
- o File a Notice of Termination (NOT) form when the construction site is stabilized and revegetated.

To the Board of Mayor and Aldermen of the City of Manchester:

The Committee on Bills on Second Reading respectfully recommends, after due and careful consideration, that an Ordinance:

"Amending Chapter 70: Motor Vehicles and Traffic of the Code of Ordinances of the City of Manchester by amending Section 70.40 Towing by increasing the towing fees."

ought to pass.

(Unanimous vote)

Respectfully submitted,

Tel Denuer

Clerk of Committee

City of Manchester New Hampshire

In the year Two Thousand and Five

AN ORDINANCE

"Amending Chapter 70: Motor Vehicles and Traffic of the Code of Ordinances of the City of Manchester by amending Section 70.40 Towing by increasing the towing fees."

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

Deletions to existing ordinance language are struckthrough. New language appears in bold.
 Sections of the following chapter that remain unchanged appear in regular type.

§ 70.40 TOWING.

- (A) (1) Any company or person which tows a motor vehicle without the consent or authorization of the owner or operator of the motor vehicle shall not charge a towing fee in excess of \$50\$70 during regular business hours. The fee for a tow conducted at a time other than regular business hours shall be \$85. For purposes of this section, "regular business hours" shall mean, at a minimum, the hours from 8:00 a.m. to 5:00 p.m., Monday through Friday, holidays excepted, as well as any other posted business hours. The company or person shall post the business hours of its storage lot and shall disclose such information upon request of the owner or operator of a motor vehicle.
- (2) Any company or person which tows a motor vehicle without the consent or authorization of the owner or operator of the motor vehicle shall not charge a fee in excess of \$25 per day for storing the towed motor vehicle. There shall be no storage fee for the first 24 hours after a motor vehicle is towed.
- (B) No company or person shall charge any fee other than a towing fee or storage fee, as provided for in § 70.40 (A), for a motor vehicle which has been towed without the consent or authorization of the owner or operator; except a company or person may charge a service fee of up to \$25 to release a motor vehicle from a storage lot to its owner or operator at a time other than regular business hours. For purposes of this section, "regular business hours" shall mean, at a minimum, the hours from 7:00 a.m. to 5:00 p.m., Monday through Friday, holidays excepted, as well as any other posted business hours. The company or person shall post the business hours of its storage lot and shall disclose such information upon request of the owner or operator of a motor vehicle. In the event a service fee is charged, the company or person shall have the owner or operator sign an acknowledgment upon the release of the motor vehicle. The acknowledgment shall specify the date and time the vehicle was released, the location of the storage lot, and the amount of the service fee charged. No "hoisting", "let-down", "standby" or "gate" fee shall be charged.
- (C) Any company or person which has towed a motor vehicle without the consent of the owner or operator shall release to the owner or operator any and all property contained within or on such vehicle, but not attached to the vehicle, upon request by the owner or operator of the vehicle without requiring the payment of any fee therefore including the towing fee and the storage fee provided for in § 70.40 (A).
- II. This ordinance shall take effect upon its passage.

To the Board of Mayor and Aldermen of the City of Manchester:

The Committee on Bills on Second Reading respectfully recommends, after due and careful consideration, that an Ordinance:

"Amending the Code of Ordinances of the City of Manchester by creating a new section within Chapter 111: Amusements establishing regulations for noise activities conducted in outdoor concert venues throughout the city and inserting new penalties in Section 111.99: Penalty to enforce these regulations."

ought to pass and layover.

(Unanimous vote)

Respectfully submitted,

Lell Berner

Clerk of Committee



City of Manchester Rew Hampshire

In the year Two Thousand and Two

AN ORDINANCE

"Amending the Code of Ordinances of the City of Manchester by creating a new section within Chapter 111: Amusements establishing regulations for noise activities conducted in outdoor concert venues throughout the city and inserting new penalties in Section 111.99: Penalty to enforce these regulations."

Page 1 of 7

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

I. Amend the Code of Ordinances by deleting §§ 111.65 through 111.70: Dances; Dance Halls; Assembly in its entirety and inserting new §§ 111.65 through 111.73: Dances; Dance Halls; Assembly. New language to the sections appear in bold (bold). Previous language from the sections that remain unchanged appear in regular type.

DANCES; DANCE HALLS; ASSEMBLY

§ 111.65 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

A-WEIGHTED SOUND PRESSURE. The sound pressure level as measured with a sound level meter using the A-weighting network. The standard notation is dB(A) or dBA.

DANCE HALL. Any location, other than a food-service establishment as defined by § 117.01 of this title, which permits or permits to occur, dancing. This definition shall not include a public or private school licensed by the state or the city for the purpose of conducting regular dancing classes or dance courses of study as its regular and recurrent business activity.

DECIBEL. A logarithmic unit of measure often used to measure magnitudes of sound. The symbol is dB.

ENTERTAINMENT PLACE OF ASSEMBLY. A room or space in which provision is made for the occupancy or assembly of 100 or more persons for entertainment purposes. For the purpose of this definition such room or space shall include any occupied connecting rooms, space, or area on the same level or in the same story, or in a story or storied above or below, where entrance is common to the rooms, space, or areas. An entertainment place of assembly shall be classified in either two classifications, Class I or Class II. A Class I entertainment place of assembly shall apply to non-profit organizations that do not receive exemptions pursuant to § 110.08(C) of this Code. Class II entertainment places of assembly shall include all other applicants.

Tity of Manchester New Hampshire

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In the year Two Thousand and Two

AN ORDINANCE

"Amending the Code of Ordinances of the City of Manchester by creating a new section within Chapter 111: Amusements establishing regulations for noise activities conducted in outdoor concert venues throughout the city and inserting new penalties in Section 111.99: Penalty to enforce these regulations."

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BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

NOISE. Any sound that exceeds the standards set forth in this chapter, annoys or disturbs a reasonable person of normal sensibilities, or causes or tends to cause any adverse psychological or physiological effect on humans.

SOUND. An oscillation in pressure, stress, particle displacement and particle velocity which induces auditory sensation.

SOUND LEVEL METER. An apparatus for the measurement of sound levels. The sound level meter shall be of a design and have the characteristics of a Type 2 or better instrument as established by the American National Standards Institute.

§ 111.66 LICENSE REQUIRED.

- (A) No person shall own or operate a dance hall or entertainment place of assembly within the city unless a license shall first be obtained from the City Clerk.
- (B) No person shall conduct or allow to be conducted any entertainment or public dancing which is an isolated or occasional event, and which is not part of the regular and recurrent business activity of the owner or operator of the room or space within the city unless a license shall first be obtained from the City Clerk.
- (C) (1) Notwithstanding any other licensing ordinance, a duly licensed Class I and Class II restaurant in the city may allow dancing and entertainment upon obtaining an annual restaurant dance and entertainment license from the city.
- (2) The application for a restaurant dance and entertainment license shall be made to the City Clerk upon forms to be determined by the City Clerk, the licensee shall be liable for any applicable police officer's fee and the license shall expire annually on April 30.

Penalty, see § 111.99

Cross-reference:

Business license fees, see § 110.20



City of Manchester Rew Hampshire

In the year Two Thousand and Two

AN ORDINANCE

"Amending the Code of Ordinances of the City of Manchester by creating a new section within Chapter 111: Amusements establishing regulations for noise activities conducted in outdoor concert venues throughout the city and inserting new penalties in Section 111.99: Penalty to enforce these regulations."

Page 3 of 7

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

§ 111.67 POLICE ATTENDANCE AT FUNCTION.

When it is determined after investigation by the Chief of Police to be necessary to preserve order, protect the health, safety, and welfare of the citizens of the city, or to help avoid traffic-related problems, public disturbance, or public nuisance, all establishments required to be licensed under this subchapter shall be required to hire an off-duty police officer or officers during those hours the Chief of Police deems appropriate. The Chief of Police may suspend the requirement after investigation as he deems appropriate, but his requirement may be reinstated following receipt of complaints and investigation by the Chief of Police.

§ 111.68 MINORS TO BE ACCOMPANIED BY PARENT OR GUARDIAN.

Minors under the age of 17 years shall not be admitted to a dance hall unless accompanied by parent or guardian or under the supervision of school authorities. Penalty, see § 111.99

§ 111.69 RESTRICTED AREAS AT DANCES.

No person attending a public dance shall enter any room designated for the use of the opposite sex.

Penalty, see § 111.99

§ 111.70 CURFEW AT DANCES.

- (A) No public dancing shall be permitted between the hours of 2:00 a.m. and 2:00 p.m. on Sunday, 1:00 a.m. and 12:00 p.m. on Monday, or 2:00 a.m. and 12:00 p.m. Tuesday, Wednesday, Thursday, Friday, and Saturday.
- (B) No exhibit of natural or artificial curiosities, theatrical performances, or other shows shall be permitted between the hours of 2:00 a.m. and 9:00 a.m. on Sunday, 1:00 a.m. and 9:00 a.m. on Monday, or 2:00 a.m. and 9:00 a.m. Tuesday, Wednesday, Thursday, Friday, and Saturday.

 Penalty, see § 111.99

City of Manchester New Hampshire



In the year Two Thousand and Two

AN ORDINANCE

"Amending the Code of Ordinances of the City of Manchester by creating a new section within Chapter 111: Amusements establishing regulations for noise activities conducted in outdoor concert venues throughout the city and inserting new penalties in Section 111.99: Penalty to enforce these regulations."

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BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

§ 111.71 NOISE ACTIVITIES; PURPOSE.

The purpose of this section is to establish standards that will eliminate and reduce unnecessary noise at outdoor venues throughout the city which may be physically harmful or otherwise detrimental to individuals and the community in the enjoyment of life, property and the conduct of business.

- (A) No person shall conduct an event that involves the amplification of sound or speech above sixty (60) dB(A) for the purpose of presenting a musical selection, show, performance or concert at an outdoor venue within the limits of the city of Manchester without obtaining a noise permit issued by the Office of the City Clerk.
- (B) The following general guidelines shall apply to the issuance of a noise permit. These guidelines are not all inclusive as other criteria may be established that is reasonable and prudent to protect the public or limit the anticipated detrimental impact of the events noise upon the community:
- (1) All outdoor venues shall have a curfew of 10:00 p.m. Any event which exceeds this curfew shall be assessed the penalty identified in §111.99(C)(4) for each fifteen (15) minute period beyond this curfew.
- (2) The Office of the City Clerk shall not grant a permit to conduct noise at level greater than 100 dB(A) to be measured one hundred feet (100') from the noise source.
- (3) Any sound board or mix position present at an event shall be placed at one hundred feet (100') from the noise source.
- (4) The Office of the City Clerk may require any applicant to be monitored for sound levels to ensure compliance with this chapter. Monitoring may be conducted by a representative of the City or an independent third party using an appropriate sound level meter. In the event of third party monitoring, all expenses associated with the sound monitoring shall be assumed by the applicant.
- (5) In granting a license, the Office of the City Clerk may impose additional conditions or stipulations it deems necessary and proper to preserve the intent of this chapter.



City of Manchester New Hampshire

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AN ORDINANCE

"Amending the Code of Ordinances of the City of Manchester by creating a new section within Chapter 111: Amusements establishing regulations for noise activities conducted in outdoor concert venues throughout the city and inserting new penalties in Section 111.99: Penalty to enforce these regulations.

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BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

(6) Should an application for a noise permit be denied, the applicant can appeal the decision to the Committee on Administration/Information Systems of the Board of Mayor and Aldermen.

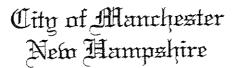
§ 111.72 PERMIT FEES.

Each application for a noise permit shall include an application fee of two hundred dollars (\$200.00) cash, money order or bank check made payable to the City of Manchester.

§ 111.73 PROHIBITED CONDUCT.

The following conduct is prohibited:

- (A) Provide any false or inaccurate information to any City board, committee, commission or any employee of the City of Manchester, in an attempt to deceive or otherwise avoid compliance with this ordinance.
- (B) Hinder, obstruct, delay, resist, interfere, or attempt to interfere with any authorized persons while in the performance of their duties under this ordinance.
- (C) Emit or cause to be emitted any noise which exceeds the established limits in \$111.71(B)(2) of this chapter.
 - (D) Violate any subsection of §111.71 of this chapter.
- (E) Conduct an event that involves the amplification of sound or speech above sixty (60) dBA for the purpose of presenting a musical selection, show, performance





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AN ORDINANCE

"Amending the Code of Ordinances of the City of Manchester by creating a new section within Chapter 111: Amusements establishing regulations for noise activities conducted in outdoor concert venues throughout the city and inserting new penalties in Section 111.99: Penalty to enforce these regulations."

Page 6 of 7

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

or concert at an outdoor venue in the city of Manchester without obtaining a license from the Office of the City Clerk pursuant to $\S 111.71(A)$.

II. Amend the Code of Ordinances by deleting language within §111.99: Penalty as stricken (----) and inserting new language as bolded (bold). Portions of §111.99: Penalty that remain unchanged appear in regular type.

§ 111.99 PENALTY.

- (A) Any person who shall fail to comply with any of the provisions of this chapter or who shall violate any of the provisions set forth herein, unless a penalty is specified elsewhere, shall be subject to the penalties as set forth in § 10.99 of this code of ordinances.
- (B) (1) Any person who commits an act prohibited or made unlawful by §§ 111.40 through 111.55 111.73 of this chapter or fails to perform any act required by such subchapter shall be guilty of a violation. Each act of violation, or in the case of continuous violation, every day upon which any such violation shall occur shall constitute a separate offense. In addition, if the court finds for the city, the city shall recover its costs of suit including reasonable experts' fees, attorney fees, and necessary investigative costs. Parties held responsible for violations of §§ 111.40 through 111.55 111.73 shall include corporate officers, partners, or owners as identified on the business license application or as may be otherwise identified by the Police Department City as a result of any related investigation.
- amusement device located within the city in contravention of any of the provisions of §§ 111.40 through 111.55. Upon such seizure the Police Department shall notify the owner of the seized devices, or the person in whose place of business the amusement device was placed, of such seizure and the reason therefor. The Police Department shall hold any such seized devices for a period of not less than ten days from the date of the required notification to the owner or operator of the premises. During this period the owner or operator may redeem any such machine by correcting the violation of this division which led to such seizure. Any amusement devices which are so seized and which are not redeemed within the ten-day period described in this division (B)(2) shall become the property of the city. Costs for transportation and storage charges will be billed to the



City of Manchester New Hampshire

In the year Two Thousand and Two

AN ORDINANCE

"Amending the Code of Ordinances of the City of Manchester by creating a new section within Chapter 111: Amusements establishing regulations for noise activities conducted in outdoor concert venues throughout the city and inserting new penalties in Section 111.99: Penalty to enforce these regulations."

Page 7 of 7

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

owner of any amusement devices seized and must be paid before the release of the devices from city storage. The city will be held harmless for any damage occurring during the act of confiscation, transportation, and storage of each device.

(C) Violations of \S 111.73 Prohibited Conduct shall follow the penalty schedule below:

(1) FIRST OFFENSE:

The licensee or his representative shall be informed of the noise ordinance and corrective measures to achieve compliance. This shall constitute an official warning and should be accomplished in writing if possible.

(2) SECOND OFFENSE:

A citation shall be issued to the licensee or his representative in the amount of two hundred and fifty dollars (\$250.00).

(3) THIRD OFFENSE:

A citation shall be issued to the licensee or his representative in the amount of five hundred dollars (\$500.00).

(4) FOURTH AND SUBSEQUENT OFFENSES:

A citation shall be issued to the licensee or his representative in the amount of one thousand dollars (\$1000.00).

III. These ordinances shall take effect upon passage.

To the Board of Mayor and Aldermen of the City of Manchester:

The Committee on Bills on Second Reading respectfully recommends, after due and careful consideration, that an Ordinance:

"Amending Chapter 115: Solicitations, Sales, Peddlers, and Fairs of the Code of Ordinances of the City of Manchester by inserting new definitions and application requirements."

ought to pass.

(Unanimous vote)

Respectfully submitted,

Tel Beneu

Clerk of Committee

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City of Manchester New Hampshire

In the year Two Thousand and Five

AN ORDINANCE

"Amending Chapter 115: Solicitations, Sales, Peddlers, and Fairs of the Code of Ordinances of the City of Manchester by inserting new definitions and application requirements."

Page 1 of 9

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

I. Amend the Code of Ordinances by deleting language stricken (----) and inserting new language in Chapter 115: Solicitations, Sales, Peddlers, and Fairs as bolded (bold). Sections of the following chapters that remain unchanged appear in regular type.

CHAPTER 115: SOLICITATIONS, SALES, PEDDLERS, AND FAIRS.

GENERAL PROVISIONS

§ 115.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CIVIC CENTER ZONE. The westerly side of Elm Street, on the sidewalk, from Pleasant Street to the Center of NH exit and the easterly side of Elm Street, on the sidewalk, from Central Street to Merrimack Street. The westerly side of the zone includes a 30-foot setback from the corner of Elm Street and the Center of NH exit, northerly, and a 90-foot setback from the corner of Elm Street and Pleasant Street, southerly. This prevents impairing driver vision (in accordance with § 8.22(E) of the Zoning Ordinance) as well as interfering with Manchester transit loading and unloading. The easterly side of the zone also includes a 30-foot setback from the corner of Elm Street and Central Street, northerly, and a 90-foot setback from the corner of Elm Street and Merrimack Street, southerly. The Office of the City Clerk shall not issue more than a pre-determined number of licenses designated for the Civic Center Zone. The Office of the City Clerk may use discretion as to the total number of licenses issued for the Civic Center Zone should it be determined that this amount disrupts pedestrian traffic patterns, vehicular traffic flow, or reasonable peddler activity.

<u>DISQUALIFYING CRIMINAL CONVICTION.</u> Any felony convictions, any conviction involving harassment, violence, theft, fraud, loitering, prowling, or endangering the welfare of a child or incompetent.

<u>FAIR.</u> A show in which ten or more persons display merchandise, articles, services, or things for sale or solicit orders and as a separate transaction deliveries are made to purchasers, from a booth, stand, rack, showcase, bench, push-cart or a designated area.

City of Manchester New Hampshire

In the year Two Thousand and Five

AN ORDINANCE

"Amending Chapter 115: Solicitations, Sales, Peddlers, and Fairs of the Code of Ordinances of the City of Manchester by inserting new definitions and application requirements."

Page 2 of 9

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

ITINERANT MAGAZINE SALESMAN. Any person, whether as principal, agent, or employee, who engages in a temporary or transient business in this city of traveling from house to house soliciting orders for magazine subscriptions or renewals.

MOTOR VEHICLE. Any vehicle, used for displaying, storing, or transporting of articles offered for sale by a peddler, which is required to be licensed and registered by the State Department of Motor Vehicles.

PEDDLER. A person as defined in R.S.A. 320.1 and R.S.A. 321.1, except as may be excluded by § 110.08 of this title, and shall include any person, whether a resident of the city or not, traveling by foot, wagon, motor vehicle, or any other type of conveyance, from place to place, from house to house, or from street to street, carrying, conveying, or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, flowers, plants, garden truck, farm products or provisions, offering and exposing the same for sale from a wagon, stand, motor vehicle, railroad car, or other vehicle or conveyance, and includes one who while traveling from place to place solicits orders and as a separate transaction deliveries are made to purchasers. The word PEDDLER shall include one who travels from place to place offering to perform personal services for household repairs or improvements, or solicits or induces any person to sign any contracts relating to household repairs and improvements, including contracts for the replacement or installation of siding on any residence or building; or one who keeps a regular place of business, open during regular business hours at the same location, but who offers for sale or sells and delivers, personally or through his agents, at a place other than his regular place of business, goods, wares, or merchandise. The word PEDDLER shall include HAWKER, VENDOR, HUCKSTER, and ITINERANT VENDOR. The word PEDDLER shall not include those persons who are on residential premises at the prior invitation of the owner or legal occupant or direct sellers as defined by Sec. 3508 of the U.S. Internal Revenue Code.

PUBLIC ASSEMBLY BUILDINGS. As defined in the BOCA National International Building Code, 1987 2000, Article 3, §§ 302.1 through 302.6 §§ 303.1 (A-4) through 303.1 (A-5).

<u>PUBLIC PROPERTY</u>. Any city-owned or controlled property including but not limited to streets, sidewalks, municipal parking areas, and municipal parks.

STAND. Any table, showcase, bench, rack, pushcart, wagon, or any other wheeled vehicle or device which may be moved without the assistance of a motor vehicle and which is not required to be licensed and registered by the State Department of Motor Vehicles, used for displaying, storing, or transporting articles offered by sale by a peddler.



City of Manchester New Hampshire

In the year Two Thousand and Five

AN ORDINANCE

"Amending Chapter 115: Solicitations, Sales, Peddlers, and Fairs of the Code of Ordinances of the City of Manchester by inserting new definitions and application requirements."

Page 3 of 9

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

TRANSIENT or ITINERANT PHOTOGRAPHERS. All persons, whether as principals, agents, or employees, who engage in a temporary or transient business in this city, whether such persons conduct their business by traveling from house to house taking pictures in a house, or operate from a hotel room, store, or other place of business, or otherwise, and who perform any of the following acts of the photography business: solicit orders, take pictures, assist in the taking of pictures, show proofs, deliver pictures, make collections for pictures sold.

TRANSIENT OR ITINERANT MAGAZINE SALES.

§ 115.20 LICENSING REQUIREMENTS.

- (A) License required. No person shall engage in the business of an itinerant magazine salesperson unless he shall be licensed to do so as provided by this section. The City Clerk may issue a temporary license for a transient or itinerant magazine salesperson, following the same procedure as for the issuance of all annual licenses.
 - (B) License application; issuance; transfer; display.

Each applicant for an itinerant magazine salesperson's license shall apply to the City Clerk on a form to be determined by the City Clerk.

- (1) The application shall include the name and home address; the name and address of all organizations by which he is employed or receives commissions or compensation of any kind; two recent passport photographs of the applicant, or photographs of such size as previously approved by the City Clerk; a complete certified criminal record of the applicant obtained from the Criminal Records Division, State Police, Department of Safety, State of New Hampshire, and/or from the appropriate out-of state agency or agencies if not a resident of New Hampshire for the five years preceding the application; and whether he has ever before applied for a license under this section.
- (2) Upon verification of identity, review of application by Police Department, and receipt of the proper fee the City Clerk may issue the license and forward the name of the licensee to the Chief of Police. The license shall not be transferable and must be presented displayed while engaging in the business of an itinerant magazine salesperson, to any party being solicited for magazine orders or to any police officer upon request.

City of Manchester New Hampshire

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In the year Two Thousand and Five

AN ORDINANCE

"Amending Chapter 115: Solicitations, Sales, Peddlers, and Fairs of the Code of Ordinances of the City of Manchester by inserting new definitions and application requirements."

Page 4 of 9

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

- (C) Hours, behavior restricted. No person shall engage in the business of an itinerant magazine salesperson except between the hours of 9:00 a.m. and 8:00 p.m. No person shall make any solicitation in an oppressive manner.
- (D) Standards for denial. In addition to the application requirements set forth in this section, a license to operate as an itinerant magazine salesperson shall be denied to the following persons:
- (1) An applicant who has received a disqualifying criminal conviction or has been imprisoned at any time for a disqualifying criminal conviction during the five years preceding the application.
- (2) An applicant who is required to register as a sexual offender or as an offender against children under R.S.A. 651-B:6.
- under the standards of this section, or who has reason to believe that he/she may be denied an itinerant magazine sales license under these standards, may file a written request for a review of the application before the Committee on Administration. The Committee on Administration will approve or disapprove the fitness of the applicant for the license. The Committee on Administration may require the submission of qualifying evidence to make an assessment, including character references and/or evaluation by a qualified professional, and may set such conditions, review procedures, or monitoring activities as it deems appropriate as a condition of licensure.
- (E) Revocation. Any licensee that engages in any loud argument, fight, or other disturbances; harassed, threatened or assaulted another person, intentionally damaged, destroyed or threatened to damage or destroy any property or Any person violating violates any other provisions of this section shall have such license revoked. Upon request of the Chief of Police the licensee shall surrender his license. Upon conviction of violations under this section, no license shall be issued to such person for a period of three years.
- (F) Exemptions. This section shall not apply to persons involved in elementary and secondary schools conducting such solicitations under the direction and guidance of a local school or other charitable organization.

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City of Manchester New Hampshire

In the year Two Thousand and Five

AN ORDINANCE

"Amending Chapter 115: Solicitations, Sales, Peddlers, and Fairs of the Code of Ordinances of the City of Manchester by inserting new definitions and application requirements."

Page 5 of 9

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

PEDDLERS.

§ 115.40 LICENSE REQUIRED; APPLICATION.

- (A) It shall be unlawful for any person, firm, or corporation to engage in the business of a peddler within the city without first having secured a license therefor. The license shall be an annual license expiring on April 30 of each year. Each license issued pursuant to this subchapter shall be conspicuously displayed. The City Clerk may issue a temporary license for peddlers, following the same procedure as for the issuance of an annual license.
- (B) Application for a peddler's license shall be made to the City Clerk upon a form to be determined by the City Clerk. The application shall include:
- (1) The name, home and business address of the applicant, and the name and the address of the owner, if other than the applicant, of the business and of any stand or motor vehicle to be used in the operation of the business.
- (2) Two recent passport photographs of the applicant, or photographs of such size as previously approved by the City Clerk.
- (3) A complete certified criminal record of the applicant obtained from the Criminal Records Division, State Police, Department of Safety, State of New Hampshire, and/or from the appropriate out-of state agency or agencies if not a resident of New Hampshire for the five years preceding the application.
- (4) A description of the type of food, beverage, merchandise, or service to be sold, and in the case of products of farm or orchard, whether produced or grown by the applicant.
- (5) A description and photograph of any stand or motor vehicle to be used in the operation of the business, including the license and registration number of any motor vehicle used in the operation of the business.
- (6) A license from the City Health Department for any peddler who will sell any food or beverages.

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AN ORDINANCE

"Amending Chapter 115: Solicitations, Sales, Peddlers, and Fairs of the Code of Ordinances of the City of Manchester by inserting new definitions and application requirements."

Page 6 of 9

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

- A certificate of insurance that the applicant has been issued an insurance policy by an insurance company licensed to do business in the state, protecting the licensee and the city from all claims for damages to property and bodily injury, including death which may arise from operations under or in connection with the license. Such insurance shall provide combined primary and excess coverage which meet a \$500,000 minimum limit; such policy shall provide for automobile liability insurance for owned, nonowned and hire vehicles as applicable; and such policy shall provide that the policy shall not terminate or be cancelled prior to the expiration date except with 30 days' advance written notice to the city.
- Exceptions to certificates of insurance may be considered (b) on a case by case basis by the City Clerk with consultation of the risk manager to modify guidelines to meet the exposures presented in a specific activity.
- A description of the proposed location of the business together with the written permission of the abutting landowner and/or tenant and a certificate from the building department that a location is consistent with the Zoning Ordinance. The abutter's written permission for use of a location shall be kept current and submitted at the beginning of each licensing year. If the location is in or adjacent to a public area with no private abutting landowner and/or tenant, an applicant must obtain written permission from the appropriate municipal department or public agency. Authorization to operate at that location may be subject to conditions requested by the municipal department or public agency at the time approval is granted or at any time during the licensing period. Peddlers who have been licensed during the licensing year immediately preceding an application for a specific location shall be given first consideration for licensure at that location provided all other requirements under this division are met and that the license is applied for prior to June 1 of the license year. After June 1, the City Clerk may issue a license for the location to the first applicant who requests that site and who meets the licensing requirements.
- Peddlers from motor vehicles shall describe, if less than the entire city, the general area in which the business will be operated.
 - Hours of operation. (10)
 - Whether or not the applicant has previously held a peddler's

license.

(12) Proof that the applicant holds a hawker, peddler, or itinerant vendor's license from the state where applicable.

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City of Manchester New Hampshire

In the year Two Thousand and Five

AN ORDINANCE

"Amending Chapter 115: Solicitations, Sales, Peddlers, and Fairs of the Code of Ordinances of the City of Manchester by inserting new definitions and application requirements."

Page 7 of 9

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

- (C) Standards for denial. In addition to the application requirements set forth in this section, a license to operate as a peddler shall be denied to the following persons:
- (1) An applicant who has received a disqualifying criminal conviction or has been imprisoned at any time for a disqualifying criminal conviction during the five years preceding the application.
- (2) An applicant who is required to register as a sexual offender or as an offender against children under R.S.A. 651-B:6.
- (3) An applicant who is denied a peddler license under the standards of this section, or who has reason to believe that he/she may be denied a peddler license under these standards, may file a written request for a review of the application before the Committee on Administration. The Committee on Administration will approve or disapprove the fitness of the applicant for the license. The Committee on Administration may require the submission of qualifying evidence to make an assessment, including character references and/or evaluation by a qualified professional, and may set such conditions, review procedures, or monitoring activities as it deems appropriate as a condition of licensure.

§ 115.44 PROHIBITED CONDUCT.

A peddler shall not:

- (A) Operate his business on any street, sidewalk, park, parkway or in any other public place unless his peddler's license specifies that peddling in such public place is permitted thereunder.
- (B) Vend within 500 feet of the grounds of any elementary or secondary school between one-half hour prior to the start of the school and one-half hour after dismissal at the end of the school day.
 - (C) Vend within 1,000 feet of any hospital.

City of Manchester New Hampshire

In the year Two Thousand and Five

AN ORDINANCE

"Amending Chapter 115: Solicitations, Sales, Peddlers, and Fairs of the Code of Ordinances of the City of Manchester by inserting new definitions and application requirements."

Page 8 of 9

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

- (D) Vend within 1,000 feet of the same street of any public assembly building while such building is in use unless his peddler's license specifies that peddling in such place is permitted thereunder.
 - (E) Leave any motor vehicle or stand unattended.
- (F) Store, park, or leave any stand overnight on any street or sidewalk or park any motor vehicle other than in a lawful parking place, in conformance with city and state parking regulations.
- (G) Sell food or beverages for immediate consumption unless he has available for public use his own or a public litter receptacle which is available for his patron's use.
- (H) Leave any location without first picking up, removing, and disposing of all trash or refuse remaining from sales made by him.
- (I) Allow any items relating to the operation of the business to be placed anywhere other than in, on, or under the stand or motor vehicle.
- (J) Set up, maintain, or permit the use of any table, crate, carton, rack, sign, or any other device to increase the selling or display capacity of his stand or motor vehicle, where such items have not been described on his application.
 - (K) Solicit or conduct business with persons in motor vehicles.
 - (L) Sell any other than that which he is licensed to vend.
- (M) Sound or permit the sounding of any device which produces a loud and raucous noise, or use or operate any loud speaker, public address system, radio sound amplifier or similar device to attract the attention of the public.
 - (N) Operate without the insurance coverage specified in this subchapter.
- (O) Sell food or beverages without a valid and current Health Department permit to operate a food establishment.
- (P) Vend without a fire extinguisher of a type approved by the Fire Chief or his designee if the vendor utilizes heat generation equipment.
- (Q) Operate at any time other than the hours of 9:00 a.m. to 8:00 p.m. unless part of a special permitted activity or the license so specifies.



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City of Manchester New Hampshire

In the year Two Thousand and Five

AN ORDINANCE

"Amending Chapter 115: Solicitations, Sales, Peddlers, and Fairs of the Code of Ordinances of the City of Manchester by inserting new definitions and application requirements."

Page 9 of 9

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

- (R) Vend within 50 feet of any building or storefront housing a business selling the same or similar food, merchandise, or product except during special one-day events or while such business is closed.
- (S) Vend in the area around the Civic Center bounded by Pine Street from the corners of Manchester Street and Valley Street, Valley Street from the corners of Pine Street and Elm Street, Elm Street from the corners of Valley Street and West Auburn Street, West Auburn Street from the corners of Elm Street and Canal Street, Canal Street from the corners of West Auburn Street and Market Street, Market Street from the corners of Canal Street and Franklin Street, Franklin Street from the corners of Market Street and West Merrimack Street, West Merrimack Street from the corners of Franklin Street and Elm Street, Elm Street from the corners of West Merrimack Street and Manchester Street, Manchester Street from the corners of Elm Street and Pine Street, unless the applicant proposes to vend items adjacent to a business they currently own within this area, part of a special permitted activity or the license so specifies.
- (T) Engage in any loud argument, fight, or other disturbances; harassed, threatened or assaulted another person, intentionally damaged, destroyed or threatened to damage or destroy any property.
 - (U) Operate without properly displaying peddlers license.

The Committee on Bills on Second Reading respectfully recommends, after due and careful consideration, that an Ordinance:

"Authorizing the Mayor to Dispose of Certain Tax Deeded Property Known as West Haven Road, Map 0922/Lot 0039-A."

ought to pass.

(Unanimous vote)

Respectfully submitted,

Lel Berne

The Committee on Lands and Buildings respectfully recommends, after due and careful consideration, that the previous actions with regard to the disposition of tax deeded property known as West Haven Road, Map 0922/Lot 0039-A be rescinded.

It is recommended that the property be found surplus to City needs and offered for sale to the abutters, Dennis and Diane Traynor of 139 Mayflower Drive, at a price of \$3,000. Such price having been deemed a reasonable value by the Board of Assessors. The Committee notes that there is just cause to dispose of said property to the abutters as it serves no practical purpose other than to the abutters, would maintain an unsightly area, provide for access to the property, and sale of property to the abutters shall place the property on the tax roles, which is consistent with the recommendation of the Planning Department.

The Committee further recommends that the Tax Collector and City Solicitor be authorized to proceed with disposition and prepare such documents as may be required, and that the Finance Officer be authorized to credit tax deeded accounts as deemed necessary, and for such purpose an ordinance is submitted for referral to the Committee on Bills on Second Reading.

Respectfully submitted,

At a meeting of the Boar	d of Mayor and Alder	men
held May 3, 2005 or	a motion of Ald. $\frac{R}{R}$	OY
tuly seconded by Ald	Thibault	the report
of the Committee was a	cepted and its recor	mmendations
(adopted) (cienied)	Johnson	
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City of Manchester New Hampshire

In the year Two Thousand and Five

AN ORDINANCE

"Authorizing the Mayor to Dispose of Certain Tax Deeded Property Known as West Haven Road, Map 0922/Lot 0039-A."

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

I. That in accordance with New Hampshire RSA 80:80, the Mayor is authorized to convey a parcel of tax-deeded property known as West Haven Road, City Map 0922/Lot0039-A in the City of Manchester to Dennis and Diane Traynor of 139 Mayflower Drive at a cost of Three Thousand Dollars (\$3,000.00).

Said property was acquired by Tax Collector's Deed dated January 16, 1991 and recorded in the Hillsborough County Registry of Deeds on January 21, 1991, Book 5234, Page 1626. The Board of Assessors concurs that the above noted disposition reflects a reasonable value.

The Board finds just cause to sell such property to the abutter as said parcel is considered residual/unbuildable, serves no practical public purpose other than to the abutters, is presently a liability to the City as a waste disposal site, and sale of property to the abutters shall place the property on the tax roles.

II. This Ordinance shall remain in effect for a period of two years (2) from the date of passage.





The Committee on Joint School Buildings respectfully recommends, after due and careful consideration, that the City and School District seek reimbursement for damages that occurred at Central High School if it is found that said damage was due to the negligence of any third party subject to Board of Mayor and Aldermen and School Board approval.

(Unanimous vote)

Respectfully submitted,

Lel. Berner



The Committee on Joint School Buildings respectfully advises, after due and careful consideration, that they have approved adding football lockers to the Memorial High School locker room with funding to come from the furniture, fixtures and equipment line item for the project.

(Unanimous vote)

Respectfully submitted,

Tel Berner



The Committee on Lands and Buildings respectfully recommends, after due and careful consideration that the attached policy regarding the private use of the former Portsmouth Branch Railroad Right-of-Way be approved.

(Aldermen Osborne, Porter and Thibault voted yea; Aldermen Roy and Gatsas voted nay.)

Respectfully submitted,

City of Manchester Policy Regarding Private Sector Use of the Former Portsmouth Branch Railroad Line Right-of-Way



- 1. BECAUSE the conveyance deed which transferred the former Portsmouth Branch Line rightof-way from the State of New Hampshire to the City of Manchester requires that the City of Manchester "shall use and manage the abandoned railroad corridor as a recreational trail for use by the general public", and
- 2. BECAUSE that same deed requires that "Any future alterations by the City of Manchester to the abandoned railroad corridor shall necessitate review by the Federal Highway Administration relative to the Section 106 historic review process"; and
- 3. BECAUSE that same deed requires that the "City of Manchester must obtain approval from the New Hampshire Department of Transportation before selling any portion of the abandoned railroad corridor"; and
- 4. BECAUSE that same deed reserves to the State of New Hampshire "a transportation easement, 30 feet in width, crossing all the [parcels associated with the former Portsmouth Branch Line ROW] for any mode of public travel. . . . ", and
- 5. BECAUSE any application by the City for state and federal Section 106 historic review which would be necessitated by any alteration to the former Portsmouth Branch railroad corridor would represent a significant time and monetary expense to the City;
- 6. It is CONSEQUENTLY the policy of the City of Manchester to
 - *PROMOTE* the development of authorized public recreational uses along the former Portsmouth Branch railroad corridor; and, in order to satisfactorily ensure this end,
 - DISCOURAGE private sector uses on the former Portsmouth Branch railroad corridor.
- 7. In any exceptional case where the City is considering the authorization of private sector use of any portion of the former Portsmouth Branch railroad corridor, it is also the policy of the City of Manchester to ensure the following:
 - (a) That any terrain alteration activities will be strictly limited to removal of steel rails and wooden ballast works, the installation of recreational trails, and/or installation of a loam and grass seed cover and work will be carried out under the supervision, and to the satisfaction, of the Parks, Recreation and Cemetery Department;
 - (b) That all approved terrain alteration, recreational trail installation, and/or loam and grass seeding activity will be carried out and paid for by the authorized private sector entity;
 - (c) That no structure including fencing, not related to recreational trail usage will be constructed or placed within any portion of the former Portsmouth Branch railroad corridor;
 - (d) That the general public will retain continual freedom of movement over the Portsmouth Branch railroad corridor;



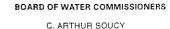
- (e) That no use will be authorized if its current or future purpose is to satisfy, or aid in satisfying for any private sector person or entity, any zoning ordinance, site plan or subdivision requirement, or any other municipal ordinance or regulation;
- (f) That no use will be authorized if any activity associated with that use would sufficiently alter the former Portsmouth Branch railroad corridor in such as way as to necessitate any state or federal evaluation under the Section 106 historic review process;
- (g) Except in cases of extreme hardship, that any and all uses permitted by the City shall be by written revocable license;
- (h) That any and all issued licenses shall contain a provision which will allow it to be revocable by the City, in its sole discretion at any time for any reason. Upon revocation the private person or entity shall return Portsmouth Branch corridor to its original condition or to such condition as the Parks, Recreation and Cemeteries Department shall agree; and
- (i) That any issued license may contain any provision deemed reasonable by the City Solicitor to carry out the intent of this policy or for any other purpose.
- 8. <u>Procedure</u>: Any person or entity wishing to use a portion of a former Portsmouth Branch railroad corridor shall:
 - (a) Submit a written application to the Committee on Lands and Buildings (c/o the City Clerk) which shall include a listing of the specific uses planned for the former Portsmouth Branch railroad corridor and shall also include a site plan of the affected area which has been prepared and signed by a licensed surveyor. The site plan shall, at minimum, show the boundaries of the former Portsmouth Branch railroad corridor, the location of the applicant's property, and existing and proposed site conditions.
 - (b) The City Clerk shall send a copy of the application to the Planning and Community Development Department and to the Parks, Recreation and Cemeteries Department for review and recommendation.
 - (c) Once the City Clerk has received the recommendations of the Planning and Community Development and Parks, Recreation and Cemeteries Departments, the application along with the departmental recommendations shall be placed on the agenda of the Committee on Lands and Buildings for Committee action.
 - (d) Should the Committee on Lands and Buildings recommend that the uses proposed in the written application, as it may be amended, be allowed, that recommendation shall then be sent to the Board of Mayor and Aldermen for action.

The Committee on Lands and Buildings respectfully recommends, after due and careful consideration, that the Water Works Director be authorized to enter into an agreement with Anagnost Companies, Inc. and the Manchester Housing and Redevelopment Authority for the sale of 16+/- acres of property on Karatzas Avenue subject to the following conditions:

- 1) that the Committee and the Board of Mayor and Aldermen find the property surplus to City needs;
- 2) that the Committee receive reports from Planning, Tax Collector and Assessors as provided by law;
- 3) that the Committee and the Board of Mayor and Aldermen agree on the purchase price; and
- 4) that the proposed disposition of property provides for workforce housing and just cause is found to sell same to the aforementioned parties as is consistent with law.

(Aldermen Roy, Gatsas and Thibault voted yea; Aldermen Osborne and Porter voted nay.)

Respectfully submitted,



DONALD P. COUTURIER

LOUIS C. D'ALLESANDRO

HON, ROBERTA, BAINES

THOMAS M. BOWEN, P.E.

JAMES W. CRAIG PATRICIA H. CORNELL RICHARD M. BUNKER

President

Ex Officio

Mayor

Clerk



MANCHESTER WATER WORKS

281 LINCOLN ST., MANCHESTER, NEW HAMPSHIRE 03103-5093 Tel. (603) 624-6494

July 22, 2005

Board of Mayor and Aldermen

Committee on Lands and Buildings

Director and Chief Engineer

ROBERT BEAURIVAGE, P.E.
Asst. Director

RE:

SURPLUS LAND SALE

Dear Aldermen:

City of Manchester One City Hall Plaza Manchester, NH 03101

The Board of Water Commissioners at their meeting on Wednesday, July 20, 2005, took action to declare as surplus to the department's needs, a 16±-acre parcel of land in Manchester on Karatzas Avenue. Enclosed for your information is a copy of staff's memorandum to the Board which discusses the parcel.

The action by the Board of Water Commissioners was taken as a result of a request made jointly by Dick Anagnost of Anagnost Companies, and Dick Dunfey of the Manchester Housing and Redevelopment Authority, for consideration of sale of the property at fair market value to the joint public/private partnership for the purpose of constructing additional "workforce housing" in the area. A copy of their June 7, 2005 letter is attached for your consideration.

The Committee's favorable consideration of the request including the necessary waiver to sell the property to the partnership, is therefore respectfully requested. The parties will be available at the next scheduled Lands and Buildings Committee meeting to explain the proposal and to answer any questions which the Committee may have.

Sincerely,

Thomas M. Bowen, P.E.

Thomas 6 Sur

Director

TMB:ds

Enclosure

cc: C. Arthur Soucy, President, Board of Water Commissioners

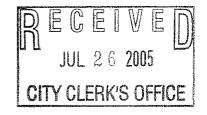
Mayor Robert A. Baines

Dick Anagnost, Anagnost Companies

Dick Dunfey, Manchester Housing and Redevelopment Authority

Thomas Clark, City Solicitor

Robert Beaurivage, P.E., Assistant Director, MWW



Memo

July 13, 2005

TO:

BOARD OF WATER COMMISSIONERS

FROM: /r THOMAS M. BOWEN, P.E., DIRECTOR

RE:

KARATZAS AVE. LAND

At the June 29, 2005 meeting of the Board of Water Commissioners, a presentation was made to the Board by Dick Anagnost of Anagnost Companies, Inc. and Ken Edwards of the Manchester Housing Authority regarding their interest in purchasing the property at fair market value as a joint venture in order to construct workforce housing units on the property.

With regard to the Karatzas Avenue property, the following information is pertinent:

- The Manchester Water Works purchased the original 16.3-acre parcel in July of 1925.
- In 1961 approximately .4 acres of the parcel were sold to the State of New Hampshire as part of the I-93 and Rt. 101 construction project.
- There are two easements across the property in the vicinity of the eastern boundary, a 10foot wide Public Service Company easement for the benefit of an abutter located to the north, and a 30-foot gas utility easement for the Northeastern Gas Transmission Company.
- The intended use of the property when purchased in 1925 was an alternate site for the construction of a high service storage reservoir that would be compatible elevation-wise with the high service system, that is the reservoirs located in Derryfield Park.
- On two occasions in the 1980s the parcel was declared surplus by the Board of Water Commissioners with appraisals sought in August of 1983, however, it is unclear why the property was not sold at that time.

As outlined at the June Board meeting, the procedure for the sale of Water Works' property is that it must first be declared surplus by the Board of Water Commissioners. The sale must then be approved by the Board of Mayor and Aldermen and in accordance with Section 34.21 of the City Code of Ordinances, it must be sold as a public offering unless the BMA determines that it would be in the best interest of the City to do otherwise.

IT IS THEREFORE RECOMMENDED THAT THE BOARD OF WATER COMMISSIONERS RENEW THEIR DETERMINATION THAT THE KARATZAS AVENUE PROPERTY IS SUR-PLUS TO THE DEPARTMENT'S OPERATIONAL NEEDS, AND SHOULD THE BOARD WISH TO CONSIDER THE OFFER FOR SALE TO THE ANAGNOST COMPANIES AND THE MAN-CHESTER HOUSING AUTHORITY AS A JOINT PUBLIC/PRIVATE PARTNERSHIP, THAT A LETTER BE FORWARDED TO THE BOARD OF MAYOR AND ALDERMEN SEEKING THE NECESSARY WAIVER FROM THE PROCUREMENT CODE.

Attachments

Manchester Water Works

281 Lincoln St., Manchester, NH 03103, tel. 603-624-6494, fax: 603-628-6020

120.05



OLD WELLINGTON ROAD APARTMENTS, LLC

Date: June 7, 2005

To: C. Arthur Soucy

President, Board of Water Commissioners

City of Manchester, Water Works

Business Office 281 Lincoln Street Manchester, NH 03103

From: Dick Anagnost

Dick Dunfey

Anagnost Companies

Manchester Housing and Redevelopment Authority

Re: Karatzas Avenue Property

Dear C. Arthur Soucy,

Please accept this letter as a formal request to purchase the Water Works owned property containing 14 Acres more or less located on Karatzas Avenue and Old Wellington Road (Parcel # 551-13).

The parcel would be purchased by a joint public/private partnership between The Manchester Housing and Redevelopment Authority and The Anagnost Companies for the purpose of building workforce housing on the property.

We are currently in the process of completing a similar project on Old Wellington Road on a parcel of Land formally owned by the City of Manchester.

We propose to purchase the property at Fair Market Value, subject to planning board approval. Fair Market Value would be determined by each of us hiring an independent M.A.I. Appraiser to establish its value.

I am sure you are aware of the housing crunch in which Manchester finds itself at this time. The ability to utilize this excess piece of land (which is not to our knowledge part of the watershed) to cost effectively provide our teachers, firefighters, police officers, etc., a clean and affordable place to live would be a great advantage to the City of Manchester at this point and time.

We would be pleased to make a presentation to your board, should you so desire. Please contact me with any questions you may have.

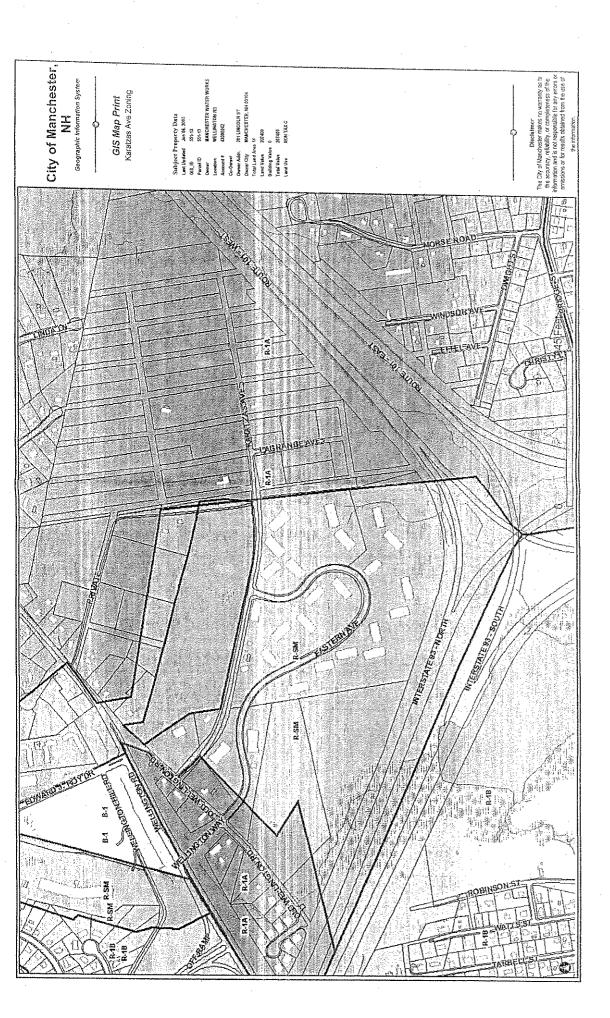
Sincerely,

Dick Anagnost

Anagnost Companies

Dick Dunfey

Manchester Housing and Redevelopment Authority



http://ia/servlet/com.csni.esnimap.Esnimap?ServiceName=manchgissde&ClientVersion=4.0.1&Form=True&Encode=False



The Committee on Lands and Buildings respectfully recommends, after due and careful consideration, that the Board of Mayor and Aldermen approve a proposal from J P Sercel Associates, Inc. to acquire and develop the French Hall property at Hackett Hill for \$1.3 million and authorize the Manchester Housing and Redevelopment Corporation to move forward with the sale.

(Aldermen Roy, Porter and Thibault voted yea; Aldermen Gatsas and Osborne

voted nay.)

Respectfully submitted,



CITY OF MANCHESTER

Manchester Economic Development Office



MEMORANDUM

TO:

Land & Buildings Committee

Board of Mayor & Alderman

FROM:

Paul J. Borek

Director

DATE:

August 25, 2005

RE:

J. P. Sercel Associates, Inc.

Advanced Laser Manufacturing Technologies

Purchase of French Hall

Enclosed please find the recommendation of the Manchester Housing & Redevelopment Authority (MHRA) regarding the purchase of French Hall in the Northwest Business Park at Hackett Hill by J.P. Sercel Associates, Inc. (JPSA). I have met with JPSA President Jeff Sercel several times and have toured his research and production facility in Hollis, NH. I fully endorse the selection of JPSA for the following reasons:

- JPSA is a private, for-profit business enterprise engaged in sophisticated research and development of laser systems and equipment for numerous client applications around the world.
- JPSA has been in business for 14 years and is growing rapidly after moving from consulting to laser system development and production.
- JPSA President Jeff Sercel previous started and sold another laser company prior to starting JPSA.
- JPSA has relationships with numerous southern New Hampshire suppliers and allied industry companies. As such, JPSA's location in Manchester could help attract other research and technology companies to the Northwest Business Park at Hackett Hill.
- Laser systems and laser applications to the fields of medicine (medical vision and diagnostic optics and biotechnology), defense, and biometrics (automated identification based on physiological or behavioral characteristics for security purposes) are among the fastest growing industries in the U.S.

One City Hall Plaza, Manchester, NH 03101 Phone (603) 624-6505 Fax (603) 624-6308 E-mail: econdev@ci.manchester.nh.us www.ci.manchester.nh.us

- Laser cleaning technology and laser cutting machines (with industrial applications including aerospace alloys, stainless steel composites, ceramics, marble, glass, mica, rubber and wood) have particular applications to southern New Hampshire's concentration of electronics and semiconductor industries.
- As identified in the Hackett Hill Research Park Master Plan and the Northwest Business Park Development Plan Cooperation Agreement with the MHRA (Nov. 6, 2002), JPSA best complies with the following planning goals set for the development of the park:
 - Building long-term commercial tax base. Hackett Hill offers
 Manchester's primary opportunity for adding new property to the tax roles. It
 also offers the opportunity to reverse the decline in the percentage of the tax base
 of commercial uses versus residential uses. As such, a major goal is to focus on
 uses that can provide immediate tax benefits as well as long-term growth in
 taxable assessed value
 - Providing employment opportunities. Uses which provide a number of new employment opportunities are preferred. Focus is on research & development, light manufacturing and headquarters office employment.
 - Competitive Opportunities. Manchester competes with other communities for new and expanding businesses. While the City has a reemerging downtown, many businesses are looking for more rural/suburban settings near highways. Hackett Hill should focus on both bringing in businesses which would not otherwise consider a City location and providing an opportunity to retain expanding businesses which have outgrown a central city location.
 - Development Vision. The general vision is for a quality commerce park with opportunities for research and development companies, light manufacturing and corporate offices. New uses should meet these objectives or provide a complementary use to them.
- Finally, JPSA has offered to pay the full asking price of \$1.3 million and will invest another \$1.3 million in immediate improvements to the building and grounds. In the next few years, JPSA plans to expand the existing 31,000 square-foot building to 100,000 square feet.
- JPSA will move 46 jobs to Manchester and plans to generate and additional 80 100 quality jobs over the next five years.
- JPSA has the financial capacity to purchase the building, having already secured an approval for financing from the Citizens Job Bank loan fund.



Dick Dunfey Secretary/Treasurer

M A N C H E S T E R HOUSING AND REDEVELOPMENT CORPORATION

William B. Cashin

Marie E. Donohoe Vice-President

George N. Copadis
Trustee

Fem G.Gelinas
Trustee

M. Mary Mongan Trustee

August 22, 2005

Henry Thibault, Chairman City of Manchester Lands and Buildings Committee One City Hall Plaza Manchester, NH 03101

RE: Sale of French Hall

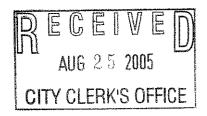
Dear Chairman Thibault:

On August 18, 2005, the Manchester Housing and Redevelopment Corporation Board of Trustees approved a proposal from J P Sercel Associates, Inc. of Hollis, New Hampshire to acquire and develop the French Hall property at Hackett Hill. Enclosed is a copy of the Letter of Intent to purchase which has been approved by Manchester Housing and Redevelopment Corporation counsel, Bill Craig, for this purpose.

J P Sercel Associates, Inc.'s business consists of laser technology design, development and production of specialized equipment for markets worldwide. It currently employs forty-six scientists, administrative staff and production technicians. It has outgrown its 21,000 square foot facility in Hollis and intends to bring its entire operation to Manchester. It has offered the full asking price of \$1,300,000.00 for the property, which it will immediately rehabilitate at a cost of approximately \$1,300,000.00. In addition it will immediately begin planning for future expansion which will result in a total of 100,000 square feet on the property within five years.

This is an allowed use under the Research Park Zone and is exactly the kind of business a Research Park is designed to accommodate. In discussions we have had with Lee Ann Woods of Angelou Economics (the consultant currently preparing Manchester's Strategy for the New Economy,) she indicates that laser technology is one of the fastest growing segments of the technology industry and would be an ideal use to kick off Manchester's Northwest Business Park.

The Manchester Housing and Redevelopment Corporation Board of Trustees considered five other proposals to purchase French Hall and we have included a copy of the summary which outlines some of the details of these proposals. The proposal from J P Sercel Associates, Inc. provides the highest and best use for the property consistent with the objectives established for the Research Park, including quality employment opportunities and increased tax base. We have enclosed brochures provided by J P Sercel Associates, Inc. to illustrate the specialized types of products they have designed, developed, produced and marketed.







Page 2 Henry Thibault, Chairman

With City of Manchester concurrence, we will proceed with a Land Disposition Agreement as we have done in past development projects for the City.

Thank you.

Sincerely,

MANCHESTER HOUSING AND REDEVELOPMENT CORPORATION

Dick Dunfey

Secretary/Treasurer

cc:

Robert A. Baines, Mayor

Thomas Clark, Esq.

Paul Borek, Economic Development Director

Robert S. MacKenzie, AICP

LETTER OF INTENT

Seller:

Manchester Housing and Redevelopment Corporation (MHRC),

198 Hanover Street, Manchester, NH 03104

Buyer:

J P Sercel Associates, Inc., 17 D Clinton Drive, Hollis, NH 03049 and/or assigns,

satisfactorily to MHRC which shall not be unreasonably withheld.

Property Address:

220 Hackett Hill Road, Manchester, NH 03101

Purchase Price:

\$1,300,000 (One Million Three Hundred Thousand Dollars)

Deposit:

\$60,000 upon acceptance of this Letter of Intent, to be held in escrow by the

Seller.

Additional Deposit: \$60,000 in additional deposit due upon completion of Due Diligence.

Balance of

Purchase Price:

\$1,180,000 due at closing in the form of cash, certified funds, or bank draft.

Transfer of Title:

Within the timeframe required from a fully executed Land Disposition Agreement, or sooner, at a mutually acceptable time and place. Buyer agrees it has received a standard

form of Land Disposition Agreement.

Deed:

Title shall be conveyed by deed conveying marketable title and shall be free and

clear of all encumbrances except usual public utilities serving the property and restrictive

covenants of record.

Possession:

Free of all personal property and encumbrances except as herein stated,

is to be given on transfer of title.

Title:

If Buyer desires an examination of title, he shall pay the cost thereof. If, upon examination of title, it is found that the title is not marketable, this Letter of Intent may be rescinded at the option of the Buyer and deposit shall be returned to the Buyer. Any fees related to recording instruments to

clear title shall be paid by the Seller.

Adjustments:

Taxes, special assessments, rents, water and sewage bills shall be

prorated as of day of Closing unless otherwise stated.

Property Included: 31,000 +/- SF office building on a 10+/- acre parcel, as referenced above.

Due Diligence:

Buyer shall be granted a forty-five (45) day due diligence period commencing from the date the City of Manchester approves the Letter of Intent, to perform all analysis (financial and otherwise), investigations, inspections, environmental

assessment, engineering, title examination or any other items which the Buyer considers

necessary to evaluate the property.

Within five (5) days of the date the City of Manchester approves the Letter of Intent.

Seller shall provide Buyer with all financial statements, environmental reports

and assessment, and all other reports, assessments, investigations and other documents Seller possesses with respect to the property. Should the results of any such analysis, investigations, inspections, assessments or other items be for any reason whatsoever unsatisfactory to the Buyer, the

Buyer may, in its sole discretion, elect to terminate the Letter of Intent and have the deposit returned, provided that Buyer send written notice of such election to the Seller within 5 (five) business days from the end of the due diligence period.

Buyer's Default:

If the Buyer shall default in the performance of the obligations under this Letter of Intent, then the Seller's sole remedy is that the deposit may, at the option of the Seller, become the property of the Seller as reasonable liquidated damages, and the Seller shall not have any further recourse against the Buyers.

Prior Statements:

All representations, statements, and agreements heretofore made between the parties are merged in this Letter of Intent, which alone fully and completely expresses their respective obligations. This Letter of Intent is entered into by each party after opportunity for investigation, neither party relying on any statement or representations not embodied in this Letter of Intent, made for the Seller, on the Seller's behalf, by the Seller's Agents and/or the Seller's representatives.

Financing:

The Buyer shall provide a financing commitment satisfactory to the MHRC which supports the purchase price and the cost of improvements within forty-five (45) days after approval of the Letter of Intent by the City of Manchester and prior to execution of a Land Disposition Agreement. The Land Disposition Agreement shall be executed within ten (10) days after the Due Diligence period has expired.

Contingencies:

This Letter of Intent is contingent on MHRC Board approval and the City of Manchester concurrence. In the event the MHRC and the City of Manchester do not approve the sale to J P Sercel Associates, Inc. or its assigns, the deposit in full will be returned.

Additional Contingencies:

Prior to Closing, the buyer shall provide plans for building and site improvements to 220 Hackett Hill Road, including schematic architectural plans which illustrate the location and layout of an additional 70,000 square feet of building construction.

Improvements shall be in accordance with the Northwest Business Park Development Plan and closing shall be contingent upon execution of a mutually satisfactory Land Disposition Agreement between J P Sercel Associates, Inc. and Manchester Housing and Redevelopment Corporation.

SEEN AND AGREED TO BY:

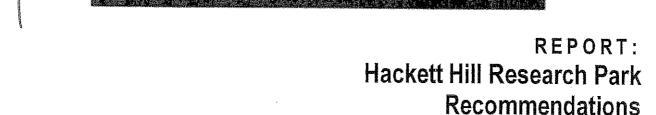
Sener:	ivialichester Housing and Redevelopment C	orporation (MHRC)
By:		
•	Dick Dunfey	Date
	Secretary/Treasurer	
Buyer	: J P Sercel Associates, Inc. and/or Assigns	
Ву:		
-	It's Authorized Agent	Date

College Manchaster II and and D. Janelann and Commenting (MIDC)

CURRENT FRENCH HALL PROPOSALS/OPTIONS 7/11/05

PURCHASE ZONING EMPL PRICE	Catalogue Sales 160 Office/Call Center \$1,300,000 Variance 240- Warehouse	12,000 sq. ft. \$1,309,000 Requires Up to professional offices. Variance Relocation of 30 bed female resident program from 1200 bed 24/7 facility.	Hi-tech Internet \$1,300,000 Allowed Use Curr service provider More Incubator Space of FT	Alzheimers Research/ \$1,300,000 Requires 10-20 Care facility (day care, Variance housing, research clinic)	College campus \$1,450,000 Conditional use 25 Staff 200 Sturf	Laser technology, design, \$1,300,000 Allowed use 46 in development and production 80-1 of specialized equipment for markets world wide
LOYMENT SIZE	160 Full Time Existing 31, 000 sq. 240-290 Seasonal ft. bldg. & 64,000 sq. ft. warehouse addition	o 100 employees Existing 31,000 sq. ft. bldg.	Current 12-16 One half (1st floor) More with renovation of existing bidg. of French Hall 2nd floor 15,000 sq. ft. 2nd floor to be renovated when a tenant is identified	:0 + volunteers Existing 31,000 sq. ft. bldg.	25 Staff Existing 31,000 sq. ft. 200 Students building and expansion to between 61,000 and 81,000 sq. ft.	46 immediate. Existing 31,000 sq. ft. bidg 80-100 more plus expansion to 100,000 over 5 years. sq. ft. within 5 years
IMMEDIATE INVESTMENT INCLUDING OFFERING PRICE	.g. \$4.540,000 on		rr) \$1,750,000 rated ntified	.q. \$2,387,600	j. ft. \$5,150,000 Ion to ind	btdg \$2,600,000
FUTURE DEVELOPMENT	Additional 20,000 sq. ft. warehouse	N/A	Intends to create a technology center and rehab 1/2 building. Rehab balance of building and remainder of site as soon as feasible.	30,000 sq. ft. residential addition \$3,600,000	Intends to add 30,000 to 50,000 sq. ft. for 400 student classrooms and housing \$13,650,000,00	Intends to expand as business grows to 10,000 sq. ft. full site utilization within 5 years.
COMMENTS	Not ideal use. Inconsistent with objectives for Business Park. May have adverse effect on future development. Currently in Londonderry, New Hampshire	Incompatible use. Exempt from apping full taxes. Have offered to pay taxes if necessary. Program to be relocated from Webster Street, Manchester, New Hampshire.	Good use, very small opperation. Full site utilization questionable. Currently on Sundial Avenue in Hesser Center, Manchester, New Hampshire in leased space.	Incompatible use. New start up.	Not ideal use. Inconsistent with objectives for Business Park. May have adverse effect on future development. Currently on Elm Street, Manchester, New Hampshire. Exempt from paying full taxes.	Excellent use. Could result in spin off business in park. Has had to turn away business due to space limitations at existing facility. Currently in leased space in Hollis, New Hampshire

ADVANCED TECHNOLOGIES



PRESENTED BY: ANGELOUECONOMICS

TARGET: LASER TECHNOLOGY & BIOMETRICS

Industry Overview

There are multiple industry segments in which laser technology and biometrics are a part. From a consumer standpoint, the most known use of laser is in surgery, primarily in optics (i.e. laser eye surgery). However, there are multiple uses for laser technology even within the medical and health services field. And optics alone has cross-over applications, most recently in the area of security.

Medical

Health services have been one of the fastest-growing industries in the United States in recent years. The U.S. health care market is estimated to be worth \$1.3 trillion annually and employs 12 million, after adding 2 million jobs through the 90s. The industry's employment is expected to grow 26 percent by 2010 and employ over 14 million.

The use of lasers in medical optics is strong, and growing rapidly. This is true from cosmetic surgery, as well as surgery related to aging, i.e. cataracts. The latest advances in laser vision technology and state-of-the-art diagnostic equipment are important — this works to determine suitability, as well as procedural need.

These advances along with so many others have helped the health service industry in the U.S. outpace population growth by 2-3 times, **biotechnology has grown at an even faster rate**. Biotechnology and the equipment and pharmaceuticals within, will continue to be in high demand. Medical equipment is expected to add another 50,000 jobs in the same time period, a growth rate of 1.6 percent. Medical equipment does include a number of laser applications, and is increasingly including those associated with biometrics.

Additionally, research and testing facilities for medical technology are expected to net an additional 244,000 jobs during the period from 2000-2010, growing at an annual rate of 3.3 percent. All told, biotechnology and medical equipment/medical devices should add nearly 400,000 jobs nationwide by the end of the current decade.

Defense

The U.S. government, too, will demand biomedical products to support efforts to detect and protect against chemical and biological agents. Competition for biotech and biomedical firms will be fierce, as almost every major metro includes biotechnology among its list of target industries. The key to successfully attracting technologies related at this time is working to attract and develop defense applications.

Currently, most biotechnology clusters are located in the Northeast (New Jersey and Boston), the Research Triangle, and California. New contenders in recent years include Central Texas and Salt Lake City. This is where the DOD is focused in their needs for technology development and applications.

The U.S. security market is broad and includes market segments such as surveillance and monitoring, access control, biometrics, computer security, fire/burglar alarms, and home automation, just to name a few. As most know, the industry has received greater recognition due to the attacks of September 11th. Many security users, including the federal government, have increased purchases of equipment and services to beef up protection of vital assets. The advanced security industry does not include traditional security measures such as guards.

The overall U.S. security market is a multi-billion industry with a double-digit growth rate. The industry is divided into three main end-use segments: commercial, government, and residential. In 2002 the U.S. security market had record revenues of \$23.4 billion. Industry consultants the Freedonia Group expect revenue to more than double to over \$48 billion by 2009. Revenue growth is just as fast outside the United States. Western Europe and Japan are the largest markets outside the U.S., but East Asia, Latin America, and the Middle East have the strongest revenue growth.

Commercial security purchases will grow considerably from \$14 billion in 2002 to \$29 billion in 2009. A combination for deceasing prices and increased demand from industrial and utility users is driving this growth. The fastest growing commercial markets are healthcare and financial services due to increased crime and corporate fraud.

The most recent developments in security include the use of laser technology and biometrics. Its use is in development for overseas and combat use. These technologies are in use today – and expanding – at the Southern Border of the U.S.; this includes finger-printing and facial recognition.

There is a great deal of product development in laser technology and biometrics specific to retinal identification, finger & palm prints, hand & finger geometry, and vein identification methods, among others.

<u>Research & Development</u>. R&D in government data security has increased dramatically since the increased terrorist concerns following the September 11th attacks. Virtually every government defense agency, including the Departments of Defense and Homeland Security, all branches of the US military, and the National Institutes of Health, funds major research projects.. Widely spread computer viruses have led the *private sector* to increase product development in network security, as well. Because the nature of the industry involves staying one step ahead of terrorists and hackers, R&D will always be an important part of this industry.

Focus: Laser Research and Technologies

Laser technology has application across numerous trades and industries; this is why it is a highly attractive target for Manchester, NH. The technology and products are already being utilized throughout many of the companies in the area. Additionally, it has vocational technology components for which educational programming is easily produced.

Laser technology grows daily. Its current applications include: cutting, drilling, welding, marking, micromachining, and solar cell cutting. The mediums on which it works include: metals, non-metals, ceramics, composites, plastics, rubber, and glass. As examples of use, laser drilling has been used in jet engines and angioplasty; and laser optics are now being used by the Department of Defense for human identification.

AE believes Manchester can work to develop this laser company opportunity through a <u>cross-over strategy</u> – for both **existing businesses** (ex: electronics and semiconductors – using laser technology for parylene ablation, i.e. surface coatings and fastenings), **and developing industries** (ex: laser optics in opthamology, and security methods in human identification).

There are research dollars to be accessed for this technology, as well as from corporations looking for application labs, and research and development for their specific needs (the trucking industry is the most recent example – they have on-going work in RFID applications).

Focus: RFID

Radio frequency Identification (RFID) first appeared in tracking and access applications during the 1980s. These wireless AIDC systems allow for non-contact reading and are effective in manufacturing and other hostile environments where bar code labels could not survive. RFID has established itself in a wide range of markets including livestock identification and automated vehicle identification (AVI) systems because of its ability to track moving objects.

Bar Code Technology

Since their invention in the early 1950s bar codes have accelerated the flow of products and information throughout the global business community. Coupled with the improvements in data accuracy that accompanies the adoption of bar code technology over keyboard data entry, bar code systems are critical elements in conducting business in today's global economy. Bar code technology encompasses the symbologies that encode data to be optically read, the printing technologies that produce machine-readable symbols, the scanners and decoders that capture visual images of the symbologies and convert them to computer-compatible digital data, and the verifiers that validate symbol quality.

Focus: Biometrics

Biometrics is an automated method of recognizing a person based on a physiological or behavioral characteristic. Among the features measured are face, fingerprints, hand geometry, handwriting, iris, retinal, vein, and voice. Biometric technologies are becoming the foundation of an extensive array of highly secure identification and personal verification solutions. As the level of security breaches and transaction fraud increases, the need for highly secure identification and personal verification technologies is becoming apparent.

Biometric-based solutions are able to provide for confidential financial transactions and personal data privacy. The need for biometrics can be found in federal, state, and local governments, in the military, and in commercial applications. Enterprise-wide network security infrastructures, government IDs, secure electronic banking, investing and other financial transactions, retail sales, law enforcement, and health and social services are already benefiting from these technologies.

Biometric-based authentication applications include workstation, network, and domain access, single signon, application logon, data protection, remote access to resources, transaction security, and Web security. Trust in these electronic transactions is essential to the healthy growth of the global economy. Utilized alone or integrated with other technologies such as smart cards, encryption keys and digital signatures, biometrics are set to pervade nearly all aspects of the economy and our daily lives.

Utilizing biometrics for personal authentication is becoming convenient and considerably more accurate than current methods (such as the utilization of passwords or PINs). This is because biometrics links the event to a particular individual (a password or token may be used by someone other than the authorized user), is convenient (nothing to carry or remember), accurate (it provides for positive authentication), can provide an audit trail and is becoming socially acceptable and inexpensive.

Biometrics is ideal for applications that require unique, absolute, and secure user identification, such as access control, social service benefits distribution, prisoner identification, time and attendance, labor management, law enforcement, banking, and personal computer and network security. Even users in traditionally conservative fields such as healthcare are exploring biometric identification systems. For example, one hospital uses a patient's fingerprint to streamline registration, decrease errors such as duplicate records, and curtail dishonest practices.

The highest demand for biometrics is through the Department of Defense, and increasingly in Asia where many of the actual products utilizing the technology and components are being manufactured.

To our knowledge, there is no comprehensive center on the East Coast for development of these technologies and components. The demand for biometrics will only grow – and with the technology centers in Massachusetts, and the applications in Europe and Asia, Manchester, NH is well-situated for exploitation of this opportunity. Manchester has the space available for testing, development, applications, and manufacturing facilities – potentially under "one roof" (i.e. Hackett Hill).

Other Applications

Laser systems offer innovative laser cleaning technology for industrial surface treatment, cleaning and paint removal applications. Laser technology removes contaminants, production residue and coatings without damaging the substrate. The laser cleaning systems combine power and versatility with the lowest operating cost of all industrial cleaning methods.

Laser cutting machines are capable of work areas measuring 120" x 72" x 36" up to 1/2" thick. Lasers can be utilized to do production runs or single-piece prototypes. <u>Applied laser processes on materials including aerospace alloys, stainless steel, composites, ceramics, marble, glass, mica, rubber, and wood.</u>

With lasers, small and deep holes can be drilled on formed 3-dimensional parts made out of a variety of high-temperature alloys, precision holes can be completed on jet engine components, and laser technology and applications allow for specific geometry and control for all applications.

RESEARCH PARKS

Throughout the 80s and into the 90s, research parks have been a popular economic development strategy for urban as well as rural regions of all economic status. For regions faced with economic decline due to decreasing manufacturing concentrations, research parks are viewed as a strategy to restructure and refocus the economy in other sectors of employment. For areas fairing well, a research park may be perceived as an insurance policy to maintain levels of employment, as well as carry an economy into the next century. Research parks have been defined as "organizational entities that sell or lease spatially contiguous land and/or buildings to businesses or other organizations whose principal activities are basic or

applied research or development of new products or processes." This definition excludes high-technology centers such as Silicon Valley, industrial parks, and office parks.

The <u>Association of University Related Research Parks</u> (AURRP) defines the term research park or science park as a property-based venture that has: (1) existing or prospective land and buildings intended primarily for private and public research and development facilities, high-technology and science-based companies, and support services; (2) a contractual and/or formal ownership or operational relationship with one or more universities or other institutions of higher education, and science research; (3) a role in promoting research and development by the university in partnership with industry, assisting in the growth of new ventures, and promoting economic development; and (4) a role in aiding the transfer of technology and business skills between the university and industry tenants.

Most research parks are affiliated with one or more universities, and are focused on attracting research and development firms. Stanford Industrial Park was the first university-related research park in the U.S., while Research Triangle Park (RTP) is the currently the largest university-related research park. The Boston-Cambridge area has many commercial ventures by the Cabot and Forbes Company, which prefers the term "science parks." These areas, which line Route 128 all around the Boston Metropolitan Area, are primarily linked to Harvard University and Massachusetts Institute of Technology.

Since competition is high, it is necessary to examine why a region would look to employ a research park as an economic development strategy. A review should be given of three reasons why a region might undertake the costly and lengthy process of developing a research park. First, a region may seek "reindustrialization" -- the objective here is to create new jobs in new industries to replace jobs in declining industries; in some developing economies, the decline is the result of basic agricultural jobs that are disappearing. In older, more mature economies the decline is occurring in extractive and basic manufacturing industries, resulting from earlier epochs of industrialization: industries that range from coal mining to iron and steel production, textiles to automobile manufacturing. Product-cycle and trade theory suggests that as economies develop, and they will specialize in sectors where they have some kind of advantage relative to other regions. This usually implies moving up the skill learning curve into more sophisticated products made in more sophisticated ways.

The second reason why a region might build a research park is to **involve itself in such high-growth industries** as computers, software, and biotechnology, which are thought to <u>increase a region's economic status</u>. As nations and regions develop, moving up the skill and learning curves, they are likely to develop increasing disparities between one geographical area and another. In particular, the newer industries are likely to develop in regions where they can draw from agglomerated economies. The research park is instituted then to generate new jobs, increase income, and increase economic activity within the region.

The final reason a region may want to use the research park strategy is to help in **the creation of synergies between firms and industries**. Synergy may be defined as the formulation of "new and valuable information through human interaction." Synergies are a strong reason companies should consider research parks.

A significant number of research parks have resulted from various kinds of cooperation or partnership between the public and private sectors. These are usually promoted by regional or local governments, often in association with nearby universities, and together with the private companies that occupy the resulting space. Governments typically view research parks as an emergence of a new industrial space, defined both by the location of the new industrial sectors and by the use of new technologies in all sectors. At the same time, such new industrial space is globally interdependent and therefore can be seen as a worthwhile policy investment. Research parks are just one facet of "cities and regions as the last entrepreneurs." Cities and

regions have a greater response capacity to generate targeted development projects, negotiate with multinational firms, foster the growth of small and medium firms, and create conditions that will attract the new sources of wealth, power, and prestige.

In this process of generating new growth, cities and regions compete with each other. Advocates of creating research parks argue that such competition becomes a source of innovation, of efficiency, of a collective effort to create a better place to live and a more effective place to do business.

What is a Research Park?

- Master planned property and buildings designed primarily for private/public research and development facilities, high technology and science based companies, and support services
- A role in promoting research and development through industry partnerships, assisting in the growth of new ventures and promoting economic development
- A role in aiding the transfer of technology and business skills between university and industry teams
- A role in promoting technology-led economic development for the community or region

About Research Parks in the United States & Canada:

- Currently represent over 41,000 acres of land; have over 2,900 tenants in their parks and employ over 235,000 people. The total capital investment exceeds \$9 billion.
- Represent over 94,000,000 million square feet of office and laboratory space, and plan to add another 32 million square feet over the next several years. More than 430 staff manage the parks.
- 83% of the parks are not-for-profit entities
- 62% have a business incubator component
- 70% of the parks were established using public funds
- 73% of the parks lease their land
- 37% of the parks have an operating budget greater than \$1,000,000 per year
- 61% of the parks use public incentives to attract tenant development
- The majority of the research parks were established in the decades of the 1980's and 1990's

Dynamic research parks encourage relationships with the private sector and transfer of technology and expertise from the research arm of Universities and/or federal departments, to the ever-changing business environment. The parks work to gain private industry commitments in order to move the developments to market, creating economy. These state-of-the-art business and research communities provide access to cutting-edge research, a skilled workforce and a favorable business climate - all in a region renowned for its unmatched natural beauty and superb quality of life.

Research parks can change a region's economic stability, enterprise/ownership mix, productivity, product mix, by position on product cycle, wage structure, in-/out-migration patterns, labor force participation rate, structural unemployment rate, poverty/unemployment rates, level of income inequality, spatial form, land and housing prices, and labor-management relations. Each individual research park will have a different impact. Variation of the impacts depends on the economic structure of the region and its surrounding areas, the internal organization/management of the park, and the external linkages between the park and key institutions, including state and local governments, universities and other research institutions, and the region's existing businesses. Key to its overall success is a defined Master Plan, including a direction for the type of business and industry to be a part of the on-going operation.

Lastly, a research park alone is not an effective economic booster. In addition to its original objectives, research parks need to employ heavy marketing strategies in order to compete and be successful in the information age and the global economy. Critical to its overall success will be adding such tactics as business incubation processes and technology-transfer programs – these will help to generate results.



CONCLUSION

Manchester, New Hampshire has the opportunity to create a genuine point-of-difference for the community, as well as lead in technology breakthroughs for the world at-large, through the proper development of Hackett Hill, its research park.

Technology must drive the park — in consideration of infrastructure, as well as with tenants. In creating Hackett Hill as a competitive research park, technology research and development must lead the effort. Additionally, there will need to be an effort to create programming in coordination with the colleges and universities throughout the region — including: Dartmouth.

The opportunity before Manchester for the location of the laser research company to Hackett Hill could not be more ideal. This is a functioning, operational company with a terrific management track record for success. The company is well established and experiencing growth — given its need for a larger facility — with plans outlining additional growth in the near future. This company is in a field of study that is fast-growing, and highly regarded by two of the most sophisticated and demanding "industries" in the United States today: the Department of Defense and Logistics/Transportation — Consumer Goods industry segment.

This company's location to Hackett Hill will immediately stimulate the "research" component of the research park. And because the company already is working with the government, national recognition will come immediately to Hackett Hill and Manchester, NH, if positioned and promoted correctly. This will lead to interest for other government facilities, as well as from other companies looking for a similar geographical location, and/or synergies which can be created through these technologies – again, laser technologies cross multiple industry platforms.

It is critical to recognize the importance of strategy for Hackett Hill, not only for marketing purposes, but also in generating proper synergy and development, company-to-company. Proper strategy will lead to product developments which exponentially generate positive and sustainable economic growth for Manchester.

The laser technology company is an ideal tenant and business partner for Hackett Hill and Manchester, New Hampshire.

APPENDIX

AN ARTICLE

Biometrics and RFID - Safe Choices to Meet Emerging Security Needs

Automatic Identification and Data Collection (AIDC) technologies provide the safety and security that users want today

War, terrorism and financial fraud have created a new appreciation for security, and for the reliability and convenience that AIDC technologies can provide. These technologies, including radio frequency identification (RFID), biometrics and the venerable bar code, have long provided the foundation upon which successful security systems were built.

Today more businesses, agencies, transportation providers and facility managers need to broaden and deepen their security programs like never before. AIDC technologies have advanced and matured to ensure they will continue to be the technologies of choice to meet today's elevated security needs for users of all sizes.

Specifically, AIDC technologies deliver improved performance, and are easier to integrate and more cost effective than ever before. These improvements are the natural result of maturing markets and emerging standards. The advancements have been especially dramatic in RFID and biometrics technologies, which each deserve a fresh look from potential users. Standards for these technologies are maturing, which will make them easier to compare and integrate than ever before, without sacrificing performance or security.

"The solutions that users are looking for may not include the technology they assume they need," says Dan Mullen, interim CEO of AIM Global (www.aimglobal.org). "Today's needs may best be solved with a combination of technologies. That's typically how it's always been with automatic identification technology, and it's more true now than ever."

For example, bar code ID cards are considered more secure than photo ID cards without bar codes, and RFID proximity cards provide an even higher level of security. A company that currently uses photo ID cards and wants to upgrade its security might assume it needs a bar code or RFID system. However, biometrics is now an appropriate option, because the technology is reliable and cost effective. Biometrics may also be used in combination with bar codes or RFID to form a layered solution that increases security exponentially and provides additional benefits that the user may not have considered.

Layered security systems increasingly feature a biometric component, whether the user is a company trying to crack down on payroll fraud or a government agency responsible for securing the country's borders. These types of security needs converge in the

transportation industry, which has been an enthusiastic early adopter of many AIDC technologies.

"Proximity cards are one of the highest forms of ID, and are considered very secure. But they can still be used for buddy punching," says Jimmy Bianco, vice president of sales and marketing for Control Module Inc. (www.controlmod.com). "If you combine biometrics with the prox card you eliminate that problem."

Concerns about buddy punching-the practice where employees fraudulently clock their co-workers in or out to give them credit for time that wasn't actually worked-led Continental Airlines to implement a fingerprint ID system to augment their automated employee time and attendance recording system. The company expanded the system from Control Module after it saved an estimated \$100,000 in the first year.

The same electronic terminals used for time and attendance can also be used to control electronic locks and secure access to restricted areas of airport facilities. The application provides an excellent example of how the technology can provide a secure foundation upon which additional applications can be built. It is this kind of reliable, flexible security that makes biometrics such an excellent choice to meet emerging security needs.

Architects of some of the farthest-reaching and highest security applications have taken notice. The Border Security Act of 2002 requires all U.S. entry visas to have a biometric component by 2004, and also specifies biometrics for new passport requirements. Biometrics are one component of the multi-technology Common Access Card (CAC), the next-generation ID cards that have been issued to more than 1.5 million U.S. military personnel. The Transportation Security Agency (TSA) will include biometrics in its new ID cards, which is one reason that a major research study by Allied Business Intelligence predicted that biometric security systems would be in place at every major airport in North America, Asia and Europe within five years. Other countries are already using biometrics for citizen ID, voter identification and security applications.

"As systems require more and more security, biometrics will be the authentication vehicle," says Bianco. "Until you tie a token to a person, which biometrics does, you don't have the ultimate form of security."

That is not to say high-security applications will be the exclusive domain of biometrics technology. RFID is another important technology for future security needs, and is used to secure assets as well as people.

"RFID technology can be used in a wide variety of ways to secure people, assets and facilities such as identifying people; controlling access to secure areas; securing, tracking and monitoring fuel trucks, luggage carriers and other service vehicles; routing passenger baggage through bomb detection, screening and sortation equipment; and securing and tracking cargo", according to John Shoemaker, Vice President of Corporate Development at Matrics, Inc. (www.matrics.com).

The NEXUS program combines fingerprinting, digital photographs and RFID to facilitate swift and secure border crossings between the U.S. and Canada. To enroll in the program, frequent travelers are interviewed, fingerprinted and subject to a background check. If accepted, they receive a NEXUS photo ID card that includes an embedded RFID chip.

With that card, a NEXUS program participant can access specially designated crossing lanes. Once in the lane, he or she holds the card up to an RFID reader positioned in front of the inspection booth. The reader flashes the participant's photo and information onto a computer screen inside the booth. The inspector verifies that the photo on the screen matches the vehicle occupant and, if all checks out, authorizes the car to proceed. If there is more than one NEXUS participant in the vehicle, the reader and screen can display several photos for visual identification at once.

RFID is also the driver behind a similar program used to identify international cargo, instead of passengers. More than 40 partners, including many of the busiest ocean ports in the world, numerous multinational customs agencies and other government bodies, logistics companies, and technology providers are cooperating in the Smart & Secure Tradelanes (SST) program to track and secure cargo. Cargo containers are inspected at the port of origin and locked with an RFID cargo seal. Project participants are building a worldwide network of readers and sensors to track the movement of the tagged cargo and detect unauthorized movements. RFID, satellite tracking and Internet-based reporting all play a role in the system.

Savi Technology (<u>www.savi.com</u>) is a key contributor to the SST program and has recently won contracts from the U.S. Departments of Defense and Department of Transportation to test its RFID-based electronic seals for similar applications, including munitions and hazardous materials tracking.

"This kind of new technology will help to enhance the security of our nation's transportation system by enabling us to track cargo shipments," U.S. Secretary of Transportation Norman Mineta said in announcing the Savi contract.

Private fleet operators can also take advantage of wireless security and tracking technology. Old Dominion Freight Lines, a less-than truckload (LTL) trucking company headquartered in Thomasville, NC, installed RFID gate readers to control vehicle access to its terminals and a wireless LAN system to track the location and status of vehicles and containers once they entered the facilities. The system has paid for itself in less than a year at each location where it has been installed by improving freight handling efficiency and reducing shipping errors, in addition to increasing security.

It is clear from both the amount and level of activity that users have more confidence in biometrics and RFID than ever before. A major reason they are deploying with confidence has been the emergence of interoperable technology and standards, which have brought some stability to the fast-changing, high-growth industries.

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"Standards need to be developed for these technologies to really grow," said AIM's Mullen. "For large users, standards can always add value. Big users look for standards-based solutions because it usually means support is available from multiple vendors."

There are numerous RFID and biometrics standards activities underway at industry, national and international levels. While the volume of standards work is too large to chronicle here, a few projects merit mention. The ISO, which is the leading international standards authority, and whose standards carry the weight of law in some countries, established a new committee, ISO JTC1 SC37, in December 2002, to spearhead biometrics standards. ISO has already ratified several RFID standards and many more are close to being finalized. In May, ISO formally became involved with the SST program to gain insight to set international supply chain security and visibility standards.

The adoption pattern and standards activity for biometrics and RFID are remarkably similar to those of bar code and wireless local area networks (LAN), which each found eager early markets in defense and logistics and became very successful, mainstream technologies after strong standards emerged. In each case, pre-standard technology performed well and had the functionality to solve problems. Standards made the technologies easier to compare and integrate, but early adopters gained many benefits by creating applications before standards were in place.

"As long as a technology is sound and meets your needs, there is no need to wait for new developments. Business doesn't stop because new technology is coming," says Director Michael Guillory of Intermec Technologies Corp. (www.intermec.com), who is the company's chief authority and representative on standardization efforts. "If we waited because new technology was in the pipeline, no computer would ever have been bought and people would still be using pencil and paper."

In the current environment, many potential users are wondering if they should wait any longer to take advantage of advanced AIDC functionality. Because of the maturity and improvements in the technologies, organizations don't have to wait any longer, as many successful systems have demonstrated.

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To the Board of Mayor and Aldermen of the City of Manchester:

The Committee on Lands and Buildings respectfully recommends, after due and careful consideration, that Manchester Housing and Redevelopment Corporation be authorized to proceed with the acquisition of the Masters property located at 354 Hackett Hill Road at a negotiated price of \$275,000.00.

(Unanimous vote)

Respectfully submitted,





MANCHESTER HOUSING AND REDEVELOPMENT CORPORATION

William B. Cashin President

Marie E. Donohoe Vice-President

George N. Copadis

Fern G.Gelinas Trustee

M. Mary Mongan Trustee

August 19, 2005

Henry Thibault, Chairman City of Manchester Lands and Buildings Committee One City Hall Plaza Manchester, NH 03101

RE: Acquisition of 354 Hackett Hill Road

Dear Chairman Thibault:

On August 18, 2005 Manchester Housing and Redevelopment Corporation Board of Trustees approved acquisition of the Masters property at 354 Hackett Hill Road, Manchester, New Hampshire.

Enclosed is a plan which illustrates the location of the Masters property in relation to the French Hall property and the overall Northwest Business Park property on Hackett Hill Road. This is the only non-conforming residential property within the boundaries of our Hackett Hill property and acquisition of this property was anticipated by the Hackett Hill Master Plan.

We have negotiated a price of \$275,000.00 for the purchase of 2.75 acres including a three bedroom, two bath single family home with detached two story barn, without any real estate commissions. This price is consistent with the value established during the Master Planning process of \$100,000.00 per acre. An estimated \$300,000.00 budget line item for acquisition was included with Board of Mayor and Aldermen approval of the first phase of the Hackett Hill Master Plan. Eliminating this residential property from the Northwest Business Park will provide the opportunity for additional business park development and avoid the negative marketing issues and potential conflicts between a residential abutter and business uses within the park.

With City of Manchester concurrence, we will proceed with acquisition of the property.

Thank you.

Sincerely,

cc:

MANCHESTER HOUSING AND REDEVELOPMENT CORPORATION

Dick Dunfey

Secretary/Treasurer

Robert A. Baines, Mayor

Thomas Clark, Esq.

Paul Borek, Economic Development Director

Robert S. MacKenzie, AICP

CITY CLERK'S OFFIC

LETTER OF INTENT

Subject to the terms and conditions hereof, Seller as hereinafter defined, agrees to sell to Buyer, as hereinafter defined, and Buyer agrees to purchase the land and building as more specifically described herein:

Buyer:

Manchester Housing and Redevelopment Corporation (MHRC),

198 Hanover Street, Manchester, NH 03104

Seller:

Ronald and Ann Masters

Property Address:

354 Hackett Hill Road, Manchester, NH 03102

Purchase Price:

\$275,000.00 (Two Hundred Seventy Five Thousand and 00/100)

Deposit:

\$5,000 upon acceptance of this Agreement, to be held in escrow by

Counsel for the MHRC, William H. Craig, 84 Bay Street, Manchester, NH

03104

Transfer of Title:

90 (ninety) days from a fully executed and duly authorized Purchase and

Sales Agreement, or sooner, at a mutually acceptable time and place.

Deed:

Marketable Title shall be conveyed by Warranty Deed and shall be free and clear of all encumbrances except usual public utilities serving the

property and restrictive covenants of record.

Possession:

Free of all personal property and encumbrances except as herein stated,

is to be given on transfer of title.

Title:

If Buyer desires an examination of title, it shall pay the cost thereof. If, upon examination of title, it is found that the title is not marketable, this Agreement may be rescinded at the option of the Buyer and deposit shall be returned to the Buyer. Any fees related to recording instruments to

clear title shall be paid by the Seller.

Adjustments:

Taxes, special assessments, rents, water and sewage bills shall be

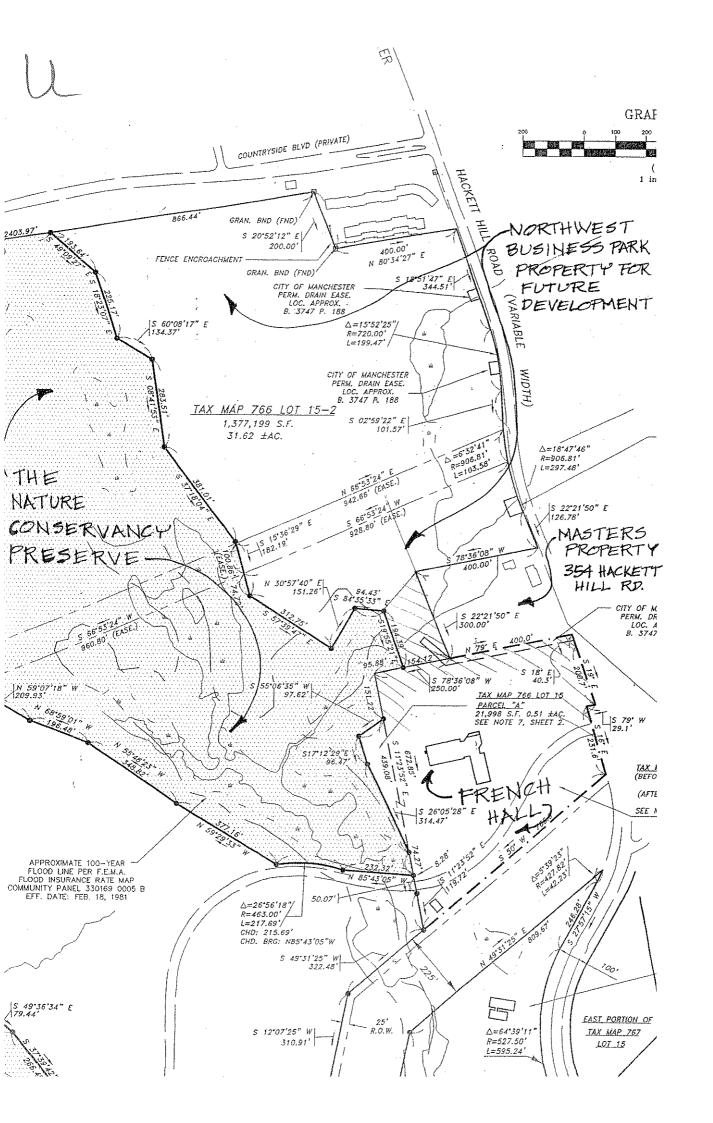
prorated as of day of Closing unless otherwise stated.

Property Included: 3 bedroom ranch style single family dwelling with one car attached garage and detached 1 ½ story storage building on a 2.75+/- acre parcel.

Due Diligence:

Buyer shall be granted a 30 (thirty) day due diligence period commencing from the time of the fully executed Agreement, to perform all analysis (financial and otherwise), investigations, inspections, environmental assessment, engineering or any other items which the Buyer considers necessary to evaluate the property. Within five (5) days of the date of the fully executed Agreement, Seller shall provide Buyer with all financial statements, environmental reports and assessment, and all other reports, assessments, investigations and other documents Seller possesses with respect to the property. Should the results of any such analysis, investigations, inspections, assessments or other items be for any reason

whatsoever unsatisfactory to the Buyer, the Buyer may, in its sole



discretion, elect to terminate the Agreement and have the deposit returned, provided that Buyer send written notice of such election to the Seller within 5 (five) business days from the end of the due diligence period.

Buyer's Default:

If the Buyer shall default in the performance of the obligations under this Agreement, then the Seller's sole remedy is that the deposit may, at the option of the Seller, become the property of the Seller as reasonable liquidated damages, and the Seller shall not have any further recourse against the Buyers.

Prior Statements:

All representations, statements, and agreements heretofore made between the parties are merged in this Agreement, which alone fully and completely expresses their respective obligations. This Agreement is entered into by each party after opportunity for investigation, neither party relying on any statement or representations not embodied in this Agreement, made for the Seller, on the Seller's behalf, by the Seller's Agents and/or the Seller's representatives.

Financing:

None

Contingencies:

This agreement is contingent on MHRC Board approval and the City of Manchester concurrence. In the event the MHRC and the City of Manchester do not approve the purchase the deposit in full will be returned and this Agreement shall be null and void. If the Buyer is unable to obtain the required approvals at the first meeting, in September, of the Board of Mayor and Aldermen, the deposit in full will be returned and this Agreement shall be null and void unless extended with written consent of the Buyers and Seller.

SEEN AND AGREED TO BY:

Seller: Ronald and Ann Masters

Buyer: Manchester Housing and Redevelopment Corporation

Dick Dunfey

Secretary/Treasure

The Committee on Traffic and Public Safety respectfully recommends, after due and careful consideration, that:

a request from Intown Manchester to allow free parking downtown on Wednesday, September 14, 2005 from 4:30 PM until 8 PM for their Taste of Downtown event

be approved.

(Unanimous vote)

Respectfully submitted,

Lel Berner

Clerk of Committee



The Committee on Traffic/Public Safety respectfully advises, after due and careful consideration, that:

a request from Jane Beaulieu, Mill City Festival Director to place signs at the entrance to the City on I-293 south at the Amoskeag and Queen City Avenue exits, I-293 north at the Queen City Avenue and Granite Street exits, and on I-3 north and south exits at Hanover Street to announce the festival on September 10 & 11, 2005

has been granted and approved with the stipulation that For Manchester be responsible for the cost and erection of said signs and that it be under the direct supervision of the Highway Department.

(Unanimous vote)

Respectfully submitted,

Tell Berner

Clerk of Committee

The Committee on Traffic/Public Safety respectfully recommends, after due and careful consideration, that the agreement between the City of Manchester and Central Parking for the operation of the Victory Garage be extended through December 31, 2005.

(Unanimous vote)

Respectfully submitted,

Clerk of Committee

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GARAGE OPERATING AGREEMENT AMENDMENT

WHEREAS the City of Manchester, New Hampshire and National Garages, Inc. first entered into a Garage Operating Agreement in 1988.

WHEREAS the Term of the Garage Operating Agreement between the City of Manchester and National Garages, Inc. has expired.

WHEREAS both the City of Manchester, New Hampshire and National Garages Inc. the wish to extend the Terms of the Garage Operating Agreement.

WHEREFORE the City of Manchester New Hampshire and National Garages, Inc. agree as follows:

- 1. The term "Parking Facility" set forth in the Recitals of the Garage Operating Agreement dated 1988 is amended to refer to the Victory Garage located at 25 Vine Street, Manchester, New Hampshire, only.
- 2. Paragraph 3.02 <u>Term</u> of the Garage Operating Agreement between the City of Manchester and National Garages, Inc. dated 1988 is amended to extend the Term to December 31, 2005, at which time the Term shall expire.
- 3. Paragraph 10.02 Company's fee is amended to provide that National Garages Inc. shall be paid a fee of \$1,045.00 per calendar month. For any partial months National Garages Inc. shall be prorated by multiplying National Garages Inc. monthly fee by a fraction consisting of a numerator consisting of the number of days in the month during which National Garages, Inc. operated the Victory Garage and a denominator consisting of the total number of days in that month.

IN WITNESS WHEREOF: the day of, 2005.	parties set their respective signatures hereto this
	National Garages, Inc.
	By It duly authorized
	Manchester, New Hampshire
	Robert A. Baines Mayor



The Committee on Traffic/Public Safety respectfully recommends, after due and careful consideration, that the following regulations governing standing, stopping, and parking and operation of vehicles, be adopted pursuant to Chapter 70 of the Code of Ordinances of the City of Manchester and put into effect when duly advertised and the districts affected thereby duly posted as required by the provisions of that chapter and chapter 335 of the Sessions Laws of 1951.

Section 70.36 Stopping, Standing, or Parking Prohibited

STOP SIGNS:

On Janet Court at Mooresville Road (NWC)

NO PARKING:

On Beech Street, east side, from Webster Street to a point 205 feet north On Lincoln Street, west side, from Valley Street to a point 400 feet north On Lincoln Street, east side, from Valley Street to Auburn Street On Villa Street, south side, from a point 25 feet east of Belmont Street to a point 35 feet east

RESCIND STOP SIGNS:

On Lincoln Street at Valley Street (NWC, SEC)

RESCIND NO PARKING:

On Lincoln Street, west side, from a point 300 feet north of Valley Street to a point 105 feet north (ORD. #8071)

On Lincoln Street, east side, from Summer Street to Valley Street (ORD.#3234)



Traffic Report Page 2.

REPEALING PROVISIONS

That all rules and regulations now in effect in accordance with the provisions of an Ordinance "Chapter 70 Motor Vehicles and Traffic" as adopted August 6, 2002, with subsequent amendments thereto and inconsistent with the traffic rules and regulations herein adopted be repealed.

(Unanimous vote)

Respectfully submitted,

Clerk of Committee

8/2/05- Laypren 9-10+11

To:

Board of Mayor and Aldermen

From:

Mayor Robert Baines

Re:

Nominations

Date:

August 2, 2005

I am nominating the following individual(s) to serve on the following board(s), commission(s), or authority(ies)

Planning Board

Robert F. Martel to fill a vacant alternate position, term to expire May 1, 2007.

Police Commission

Thomas J. Hammond to succeed James McDonald, Sr., term to expire September 15, 2008.

John Tenn to succeed himself, term to expire September 15, 2008.

Board of Recount

Alderman William Shea to succeed himself, term to expire October 1, 2008. Peter McDonough to succeed himself, term to expire October 1, 2008. Andre Martel to succeed himself, term to expire October 1, 2008.

Revolving Loan Fund

Joseph G. Fremeau to succeed himself, term to expire August 1, 2008.
Robert A. Greenwood to succeed himself, term to expire August 1, 2008.
Peter R. Madden to succeed himself, term to expire August 1, 2008.
James Bell to succeed himself, term to expire August 1, 2008.
David B. Eaton to succeed himself, term to expire August 1, 2008.
Larry Allard to succeed Edward N. O'Brien, term to expire August 1, 2008.

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THOMAS J. HAMMOND 65 Kidder Street Manchester, N.H. 03101 (603) 641-8106 E-mail Thamm43@yahoo.com Department of Criminal Justice Saint Anselm College 100 Saint Anselm Drive Manchester, NH 03102 (603) 641-7026 E-mail thammond@anselm.edu

EDUCATION

- A.B. History (Cum Laude), 1963 Saint Anselm College
- A.M. Political Science, 1965 East-West Center University of Hawaii

Recipient of United States State Department Fellowship to study Asian Political Systems at the East-West Center, University of Hawaii. Conducted research at the Japan Supreme Court, Tokyo, Japan; University of Tokyo; Ateneo de Manila University, Manila, The Philippines; Indian Law Institute, New Delhi, India; Supreme Court of India, New Delhi, India; Supreme Court of Pakistan, Lahore, West Pakistan.

J.D. Georgetown University Law Center, 1968

EMPLOYMENT

1992-Present
Assistant Professor, Department of Criminal Justice, Saint
Anselm College, Manchester, New Hampshire.

1971-1992 Chairman, Department of Criminal Justice, Saint Anselm College, Manchester, New Hampshire.

Established six satellite campuses throughout the state of New Hampshire to bring the Criminal Justice curriculum to public safety officials who were unable to travel to Manchester. Over 600 public safety officials were served by these programs

1971-Present Private Attorney.

1968-1971 Special Agent, Federal Bureau of Investigation.

1967 Legal Assistant, Office of the General Counsel, United States Post Office, Washington, D.C.

1966 Foreign Student Advisor, Georgetown University Summer School.

PROFESSIONAL MEMBERSHIPS

American Association of University Professors
American Bar Association.
New Hampshire Bar Association.
Manchester, New Hampshire Bar Association.
Academy of Criminal Justice Sciences.
Northeastern Association of Criminal Justice Sciences
Society of Former Special Agents of the Federal Bureau of
Investigation.
Association of Paroling Authorities International

COMMUNITY ACTIVITIES

Member, New Hampshire Commission on Crime and Delinquency. Chairman, Crime Prevention Committee of Manchester, New Hampshire Chamber of Commerce.

Member, Sponsoring Committee of the New Hampshire Comprehensive Children and Youth Conference.

Member, Search Committee, Youth Development Center,

Manchester, New Hampshire.

Consultant, New Hampshire Post Secondary Education

Commission.

Member, New Hampshire Adult Parole Board

Chair, Committee to Build St. Katharine Drexel Church, Alton,

New Hampshire.

Chair, Planning Committee for The New England Arson Seminar,

1978 - 2005

EXPERT WITNESS

Qualified as an Expert Witness on Police Practices and Procedures, United States District Court, Concord, New Hampshire.

PRESENTATIONS

"Lanfranc, Anselm and the Establishment of the Grand Jury". The Second Saint Anselm Conference. April 12-13, 2002 Saint Anselm College, Manchester, New Hampshire.

"Should we abolish the Grand Jury"? Annual meeting of the Northeastern Association of Criminal Justice Sciences. Roger Williams University Law School. Bristol, Rhode Island June 8, 2002.

COLLEGE ACTIVITIES

Member, Curriculum Committee
Member, International Studies Committee
Member, Faculty Senate 1997-2003
President, Faculty Senate, 1998 - 2002
President, Saint Anselm Chapter, American Association of University Professors, 2004 - 2005



CITY OF MANCHESTER Office of the City Clerk



Leo R. Bernier City Clerk

Carol A. Johnson Deputy City Clerk

Paula L-Kang **Deputy Clerk** Administrative Services

Matthew Normand Deputy Clerk Licensing & Facilities

Patricia Piecuch Deputy Clerk Financial Administration

Memo To:

Board of Mayor and Aldermen

From:

Carol A. Johnson

Deputy City Clerk

Date:

August 12, 2005

Re:

"Certificate of Sufficiency" - Charter Amendment Petitions

Enclosed for your consideration is a copy of a Certificate of Sufficiency relating to Charter Amendment Petitions filed with the City Clerk's office under the provisions of RSA 49-B:3.

As provided in the statute, I am requesting the Board schedule a public hearing on the matter.

Enclosure

August 16, 2005. In Board of Mayor and Aldermen.

On motion of Alderman Roy, duly seconded by Alderman Garrity, it was voted to refer the proposed Charter Amendment question to public hearing on September 6, 2005 in the Aldermanic Chambers of City Hall. (Note: pursuant to poll conducted August 17, 2005 of Board members public hearing will be held at 5:30 PM.)

On motion of Alderman Roy, duly seconded by Alderman Forest, it was voted to direct the City Clerk to refer the proposed Charter Amendment to the Department of Revenue Administration, Secretary of State and Attorney General for rulings pursuant to RSA 49-B:5-a and further that the City Solicitor and Finance Officer provide comments relating to same to the City Clerk for enclosure to the aforementioned parties.

One City Hall Plaza, Manchester, NH 03101 Phone (603) 624-6455 Fax (603) 624-6481 www.ManchesterNH.gov



CITY OF MANCHESTER Office of the City Clerk



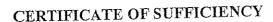
Leo R. Bernier City Clerk

Carol A, Johnson Deputy City Clerk

Paula L-Kang Deputy Clerk Administrative Services

> Matthew Normand Deputy Clerk Licensing & Facilities

Patricia Piecuch Deputy Clerk Financial Administration



Re: Petition forms submitted in person April 27, 2005 to: Karl Beisel of 116 Everett Street

For Charter Amendment Petitioners' Committee "Budget Control Amendment" (RSA 49-B:3)

Signed petitions filed July 26, 2005 at Office of City Clerk

I, Carol A. Johnson, hereby certify that I am Deputy City Clerk of the City of Manchester, NH and in such capacity further certify that:

- 1. A review of the signatures contained within the aforementioned petitions has resulted in certification of Three Thousand Nine Hundred Ninety-two (3,992) signatures of registered voters in the City of Manchester.
- 2. That such number of certified signatures constitutes more than twenty (20%) of the votes cast in the November 4, 2003 municipal election held in the City of Manchester.
- 3. That the wording contained in such petitions is as follows:

MUNICIPALITY OF MANCHESTER, NEW HAMPSHIRE Each of the undersigned voters respectfully request the municipal officers to provide for the amendment of the municipal charter as set out below.

Amend by inserting the following new language: SECTION 6.15 LIMITATION ON BUDGET INCREASES The combined annual municipal and school district budget shall not rise faster than the rate of inflation. The rate of inflation shall be defined as the Consumer Price Index (CPI) averaged over the previous three (3) calendar years. This limitation may be overridden upon the affirmative vote of eleven (11) aldermen on roll call, by separate resolution.

Dated this 12 day of August, 2005:

Carol A. Johnson

Deputy City Clerk



ATTORNEY GENERAL DEPARTMENT OF JUSTICE

33 CAPITOL STREET CONCORD, NEW HAMPSHIRE 03801-6397

KELLY A. AYOTTE ATTORNEY GENERAL



MICHAEL A. DELANEY
DEPUTY ATTORNEY GENERAL

September 1, 2005

VIA FACSIMILE AND U.S. MAIL

(facsimile 624-6481)

Leo Bernier, City Clerk
City of Manchester
One City Hall Plaza
Manchester, New Hampshire 03101

Re: Proposed Charter Amendment

Dear Clerk Bernier:

Pursuant to RSA 49-B:5-a, the Secretary of State, the Department of Revenue Administration and the Attorney General's Office is required to "review the proposed . . . charter revision . . . to insure that it is consistent with the general laws of this state." RSA 49-B:5-a. Our review is limited to assessing whether the proposed change if adopted would bring the charter into conflict with specific provisions in state law. We understand our role as one of providing assistance to the City in conforming the local options it desires to implement with the restrictions set forth in state law. In this spirit we will also comment on proposed amendments when their meaning or permissibility is, in view of pertinent state law, ambiguous or uncertain.

The proposed amendment reads:

§6.15 Limitation on Budget Increases

The combined annual municipal and school district budget shall not rise faster than the rate of inflation. The rate of inflation shall be defined as the Consumer Price Index (CPI) averaged over the previous three (3) calendar years. This limitation may be overridden upon the affirmative vote of eleven (11) aldermen on roll call, by separate resolution.

City of Manchester Charter Amendments – Objection September 1, 2005 Page 2 of 12

The Secretary of State, the Department of Revenue Administration, and the Attorney General's Office, pursuant to RSA 49-B:5-a, object to the amendment to the extent that it requires the vote of 11 Aldermen to override the limitation on budget increases. We express concern with the amendment to the extent that it seeks to regulate in an area where the Legislature has established a comprehensive statutory scheme. We also express concern with the vagueness of the scope of the limitation and with the calculation of the rate of inflation. This communication is a response to your letter dated August 17, 2005, received by the Attorney General on August 18, 2005.

RSA Chapter 49-B guides our analysis.

It is the purpose of this chapter to implement the home rule powers recognized by article 39, part first, of the constitution of the state of New Hampshire. To that end, the general court hereby provides a vehicle whereby a municipality may adopt a form of government that best addresses local needs. At the same time, however, the general court recognizes a need to require uniform procedures and practices when there is a corresponding state interest. Therefore, this chapter is intended only to provide a procedural framework by which a city or town may amend its actual form of government. Nothing in this chapter shall be construed to create any power in, or confer any power upon, any city or town beyond that necessary to carry out the amendment of a charter or form of government as set forth in this chapter. The general laws of this state shall remain in full force and effect, and they shall be construed to be consistent with this chapter to the greatest extent possible in the effectuation of this chapter's stated purpose. Accordingly, this chapter shall be strictly interpreted to allow towns and cities to adopt, amend. or revise a municipal charter relative to their form of government so long as the resulting charter is neither in conflict with nor inconsistent with the general laws or the constitution of this state.

RSA 49-B:1 Purpose and Intent (emphasis added). See also Town of Hooksett v Baines, 148 N.H. 625, 628 (2002) (RSA 49-B:1 shall be strictly interpreted to allow amendment only if the amendment is not in conflict with or inconsistent with statutes); Appeal of Barry, 143 N.H. 161 (1998). Accordingly, our analysis should not be misconstrued as our taking a position on the underlying public policy issues presented where the proposal is, in our view, in conflict with or inconsistent with a statute. Even where we would not oppose statutory revision that would allow the proposed charter provision, we understand RSA Chapter 49-B to impose on our Offices a



City of Manchester Charter Amendments – Objection September 1, 2005 Page 3 of 12

duty to state an objection in each instance where we observe a conflict or inconsistency with current law. I

Manchester is considering two proposed charter amendments. We have separately addressed the proposal regarding incompatibility of office.

Limitation of Budget increases

The City proposes an amendment, §6.15, which would impose a limitation on budget increases. This proposal would afford the voters of Manchester the opportunity through a single referendum vote to impose a supermajority vote requirement on the Board of Aldermen for the Board, which is the city's legislative body, to approve some or all appropriations if those appropriations exceed the rate of inflation. The analysis of this amendment presents a question of whether the voters will be allowed to vote on this proposal as worded. We, therefore, start our analysis with the New Hampshire Constitution which provides in Part 1, Article 11:

All elections are to be free, and every inhabitant of the state of 18 years of age and upwards shall have an equal right to vote in any election. . . .

New Hampshire Constitution, Part 1, Article 11. Voting is recognized as a fundamental right under our system of government. Analysis of the question presented begins with the public policy view, which is deeply rooted in our State's constitution and history, that the right to vote on a question is subject only to those reasonable and constitutional restrictions carefully and specifically expressed by the Legislature. The right of the voters of municipalities organized as cities to vote on the city budget has been specifically restricted by statutes. These statutes have withstood scrutiny by the New Hampshire Supreme Court.

For the reasons described below, we object to the amendment to the extent that it conflicts with state laws regarding the character of a supermajority required to issue bonds, override a mayoral veto of a budget, or to approve off-budget appropriations. We express concern with the permissibility of charter provisions which impose any limitation on the authority of the Mayor and Alderman to adopt the budget, but we do not pose a formal objection on that basis.

We also express concern with the vagueness of the proposed language, it is unclear what the intended scope and application of the limitation is. We encourage the proponents of the

¹ Our review is limited to the changes proposed by a charter revision or amendment. Our comments may touch on other pre-existing charter provisions, however, we have not conducted a comprehensive analysis of the charter provisions which are not the subject of revisions or amendment. The absence of a comment on pre-existing charter provisions which are not the subject of a proposed revision or amendment should not be construed as our taking the position that those provisions are in conformance with state law. The existence of a charter provision in the existing charter or in the charter of another municipality similarly should not be construed as a determination by the Office that such a provision is consistent with and not in conflict with the general laws of the State. Our position must change over time as legislative amendment of statutes and decisions by the Supreme Court alter the general laws of the State.

City of Manchester Charter Amendments – Objection September 1, 2005 Page 4 of 12



amendment to consider resolving the vagueness concerns should they choose to take the steps necessary to bring a revised amendment to the voters of Manchester.

Conflict with Supermajority Statutes

Charter provisions must be consistent with state law. RSA 49-B:1; RSA 49-B:5-a. The statutory provision for the issuance of bonds or tax anticipation notes by a city states:

The issue of bonds or tax anticipation notes by a city shall be authorized by a resolution of the city councils, passed by at least 2/3 of all the members of each branch thereof. . . .

RSA 33:9 (emphasis added). This statute therefore requires a vote of at least 10 of the 14 Aldermen for the City to issue a bond. The statutory provision addressing an override of a veto by the Mayor also establishes a 2/3 supermajority requirement.

He shall preside in the board of aldermen and in convention of city councils, and shall be ex-officio chairman of the board of overseers of the public welfare. He shall have a negative upon the action of the aldermen in laying out highways, and in all other matters; but shall have no vote except in case of an equal division; and no vote can be passed or appointment made by the board of aldermen over his veto unless by a vote of 2/3, at least, of all the aldermen elected.

RSA 45:9 Presiding; Veto. Absent the proposed charter provision, in the event that the Board of Alderman passed an amended budget which the Mayor then vetoed, only a 2/3 vote of the Board of Alderman is required to override the veto. The statute explicitly calculates the 2/3 vote as 2/3rds of the alderman elected, indicating that in the circumstance where a vacancy existed on the Board of Alderman fewer than 10 votes would be sufficient. Eight Alderman constitute a quorum of the Board of Alderman.

I. The mayor shall preside over all meetings of the elected body, and the city clerk shall act as a clerk of the body. . . . The elected body shall establish its own rules, and a majority shall constitute a quorum for the transaction of the business of the board. . . .

RSA 49-C:12 Meetings. The general laws of the State also set forth a comprehensive mechanism for the adoption of budgets and other appropriations by the City.

The charter shall provide for the following:

I. A budget submission date and a date by which an annual budget shall be finally adopted by the elected body. Failing final

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City of Manchester Charter Amendments – Objection September 1, 2005 Page 5 of 12

adoption by the established date, the budget shall be determined as provided in the city charter, or as originally submitted by the chief administrative officer if no such provision is made in the city charter.

- II. One or more public hearings on the budget before its final adoption. A copy of the proposed budget and notice of the public hearing shall be published at least one week in advance of any public hearing.
- III. Procedures for the transfer of funds among various budgeted departments, funds, accounts, and agencies as may be necessary during the year.
- IV. An annual independent audit conducted by certified public accountants experienced in municipal accounting. Copies or abstracts of such audits shall be made public along with an annual report of the city's business. Nothing in this paragraph shall prevent the elected body from requiring such other audits as it deems necessary. Audit services shall be put out to bid on a periodic basis as specified in the charter.
- V. Bonding of officials, officers and employees, the cost of which shall be paid by the city.

VI. Procedures for appropriation of funds, after notice and public hearing and by a 2/3 vote, for purposes not included in the annual budget as adopted.

VII. Designation of one or more depositories of city funds by the elected body, the periodic deposit of funds, and the security required for such funds. Personal surety bonds shall not be deemed proper security.

VIII. Periodic, but at least quarterly, reporting of the state of the city's finances to the public and the elected body by the chief administrative officer. The chief administrative officer, with approval of the elected body, may reduce appropriations for any item or items, except amounts required for debt and interest charges or other legally-required expenditures, to such a degree as may be necessary to keep total expenditures within total anticipated revenues.

IX. Establishment of a fiscal control function, including preaudit of all authorized claims against the city before payment. The head of such function need not be a resident of the city or the state at the time of selection, shall not be treasurer, and shall be chosen solely on the basis of executive and administrative qualifications and actual experience in and knowledge of accepted practices in respect to the duties of municipal fiscal management. City of Manchester Charter Amendments – Objection September 1, 2005 Page 6 of 12

RSA 49-C:23, Budget Process and Fiscal Control (emphasis added). The Legislature has explicitly directed that a city charter shall include a provision that on a 2/3 vote of the Board of Alderman, funds not addressed in the annual budget may be appropriated. Here, the statute does not set the denominator, therefore, the 2/3 requirement would apply to those present and voting. Were the minimum number of Aldermen present for a quorum present, which is a majority or 8 Aldermen, a 2/3 vote would be satisfied by 6 Aldermen.

We conclude that these statutes establish that the general laws of the State set the supermajority requirement for issuing bonds, for overriding vetoes of appropriations by the Mayor, and for making off-budget appropriations. In any circumstance where such appropriations or bonds would cause the combined municipal and school district budgets to rise faster than the Consumer Price Index averaged over the previous 3 calendar years the proposed charter amendment requiring 11 Aldermen to support the action conflicts with these laws. Therefore, we object to the proposed charter amendment.

For the reasons discussed below, we have concerns that charter provisions setting limitations on budget increases are inconsistent with the general laws of the State, however, we would not object to a provision which requires only a 2/3 supermajority vote to override the limitation set on budget increases.

Authority of City to Set Limitation on Budget Increases by Charter

The general laws of the State place the authority to determine the budget of a city with the Mayor and Board of Aldermen. "In General. – All the powers vested by law in towns, or in the inhabitants thereof, shall be exercised by the city councils by concurrent vote, each board having a negative on the other." RSA 47:1. In Manchester's form of government, the powers that are vested with the inhabitants of a town are vested with the Mayor and Board of Aldermen. The City's authority to adopt referendum procedures, contains an explicit exception for budget adoption.

- I. City charters may include provisions relating to any or all of the following matters:
- (a) Referendum procedures whereby voters may petition to suspend implementation of an ordinance, except budget adoption and land use regulation ordinances, enacted by the elected body, require a reconsideration by the body and, failing satisfactory reconsideration, require a referendum on approval.
- (b) Initiative procedures whereby voters may initiate ordinances by petition, require consideration of the petitioned ordinance by the elected body and, failing satisfactory consideration, require a referendum to enact the ordinance.
- (c) Conflicts of interest so long as any provisions adopted are at least as stringent as the state general laws relative to conflicts of interest.



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II. Any election pursuant to initiative and referendum procedures shall be held within 60 days after certification of a valid petition or at the next regular municipal election, whichever is earlier.

RSA 49-C:33, Optional Provisions; Limitations. The Legislature has explicitly prohibited the use of referendum procedures for specific decisions.

- I. Any city may adopt the provisions of RSA 47:1-b to restrict revenues from a specific source to expenditures for specific purposes in the following manner:
- (a) The legislative body may consider and act upon the question in accordance with their normal procedures for passage of resolutions, ordinances, and other legislation. The question shall not be placed on the official ballot....

RSA 47:1-c Procedure for Adoption (emphasis added). In contrast, for decisions on other subjects, the Legislature has explicitly permitted referendums.

I. POWER TO APPROPRIATE. The governing body of any city may, subject to the provisions of paragraphs II and III, raise and appropriate such sums of money as public convenience or necessity may require, to aid or to contribute to a mass transportation system.

II. OPTIONAL REFERENDUM. If the governing body of a city should desire to place the question of whether or not to appropriate a certain sum of money pursuant to the provisions of paragraph I, they may place said question on a referendum to be voted upon at any regular municipal election, or at a special election called for the purpose of voting on said question. . . . The governing body shall be bound by the outcome of the referendum.

III. TWO-THIRDS VOTE. If the governing body of a city should decide not to place the question of whether or not to appropriate a certain sum of money pursuant to the provisions of paragraph I on a referendum, a 2/3 vote of the entire membership of the governing body shall be necessary in order to approve said appropriation.

RSA 47:11-a, Mass Transportation for Cities (emphasis added). RSA 47:27 contains a similar provision on the subject of whether an oil refinery may be located within the city. These statutes demonstrate that where the Legislature intends voters to have access to referendum procedures on a subject matter in a municipality organized as a city, it explicitly provides for a referendum.

City of Manchester Charter Amendments – Objection September 1, 2005 Page 8 of 12



Our objection is based solely on the proposed amendment's conflict with the 11 vote supermajority requirement for overriding the limitation. It is not clear whether even a 2/3 vote override requirement would be found by a court to be consistent with the standard that a simple majority vote of the Board of Alderman is the requirement for adoption of the budget.

The Supreme Court has addressed the authority of a city to alter the mode of budgetary approval.

RSA 49-B:2, IV, which grants to a municipality discretion in tailoring its charter to its needs, <u>fails to list the mode of budgetary approval as one of those matters subject to local modification</u>. In August 1991, the legislature amended RSA 49-B:2 and created a new chapter, RSA ch. 49-C (Supp. 1991), which governs the conduct of city government. RSA 49-C:23, I (Supp. 1991) makes explicit the legislature's intent that the city council approve the annual budget: "[A]n annual budget shall be finally adopted by the elected body."

Claremont v. Craigue, 135 N.H. 528, 531 (1992). The Craigue decision held that a charter amendment that subjected the city budget to a vote by the voters of the city was not permissible. The reasoning of the decision indicates that the charter cannot limit the statutory authority of the city officials to determine the budget.

The legislature has conferred substantial authority upon city officials in order to facilitate the conduct of city government. For example, a city council has the power to purchase property for the city, RSA 47:5. A city council would be deprived of the power to purchase property if it could not guarantee that it would fund its purchases. The power to purchase implies the power to fund. The legislature has a strong interest in ensuring that the power to contract and the power to approve the budget are held by the same entity. The respondents' changes would in effect give the city's voters a veto over any proposed fiscal action by the council. Such a disjunction of power could render a city unable to fulfill its duties under RSA chapters 44 and 47.

Id. at 533 (emphasis added). It is not clear whether a court would interpret the proposed amendment to have the effect that was found impermissible by the Court in Craigue. Albeit through a limitation imposed by a prior vote of the electorate, the Board of Alderman using the standard majority vote could not adopt the budget they deemed necessary to fulfill the city's duties under law if that budget involved a "rise faster than the rate of inflation." A supermajority of 11 votes would be required, even in circumstances where the necessary quorum to conduct business is 8 Aldermen.

Preemption Doctrine



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The New Hampshire Supreme Court has also applied the preemption doctrine in striking down municipal attempts to regulate, through charter amendments, in areas where the State has established a comprehensive statutory scheme governing a subject.

It is well settled that towns cannot regulate a field that has been preempted by the State. The preemption doctrine flows from the principle that municipal legislation is invalid if it is repugnant to, or inconsistent with, State law. Thus, preemption will occur when local legislation either expressly contradicts a statute or otherwise runs counter to the legislative intent underlying a statutory scheme. Generally, a detailed and comprehensive State statutory scheme governing a particular field is demonstrative of the State's intent to preempt that field by placing exclusive control in the State's hands. That the State has created a comprehensive statutory scheme does not automatically result in preemption, however, because it could nonetheless authorize additional municipal regulation.

Town of Hooksett v. Baines, 148 N.H. 625, 627 (2002) (internal citations and quotations omitted) (citing and quoting Town of Salisbury v. New England Power Co., 121 N.H. 983, 985 (1981); Casico v. City of Manchester, 142 N.H. 312, 315 (1997)). See also JTR Colebrook, Inc. v. Town of Colebrook, 149 N.H. 767 (2003); Thayer v. Town of Tilton, No 2004-145, Slip op. (November 30, 2004). In the area of budget adoption by a municipality organized as a city, there is a detailed and comprehensive statutory scheme. As the statutes cited above indicate, not only has the Legislature not explicitly authorized municipal regulation of a city legislative body's authority to adopt budgets, but it has implicitly prohibited such regulation. Municipalities are at liberty to have a form of government that provides for direct voter control of budgets, but must organize under one of the Town forms of government to do so. Claremont v. Craigue, at 533.

Your proposed amendment, therefore, if permissible under any circumstances, must keep the ultimate authority to determine the budget with the Mayor and Board of Aldermen. Providing the Board of Aldermen the authority to override the limitation on budget increases may satisfy this requirement, however, we are concerned that the override cannot require a different majority than that required by the general laws of the State. Craigue leaves unsettled whether a charter provision imposing a supermajority requirement is permissible. Therefore, while we recommend the City of Manchester and proponents of the amendment seek their own legal counsel on this issue, we impose no objection on this basis.

Void for Vagueness

While our concern does not rise to the level of an objection, we express concern that the provision is void for vagueness to the extent that it does not provide clear guidance on how the budget comparisons are to be conducted and the extent to which it is meant to apply only to the operating budget or to all appropriations. The established

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standard for vagueness is that, generally, a municipal ordinance must be framed in terms sufficiently clear, definite, and certain, so that an average person after reading it will understand when one is violating its provisions. An ordinance is not necessarily vague because it does not precisely apprise one of the standards by which an administrative board will make its decision.

Alexander v. Hampstead, 129 N.H. 278, 281 (1987) (internal quotations, citations and brackets omitted) (citing and quoting Town of Freedom v. Gillespie, 120 N.H. 576, 580 (1980); Carbonneau v. Town of Rye, 120 N.H. 96, 98 (1980)). It is our understanding that a bare reference to the Consumer Price Index is so indefinite and uncertain that the average person would have difficulty knowing which of the available indexes is properly applied to satisfy the proposed budget limitation. It is our understanding that there is more than one Consumer Price Index, each tied to a different set of commodities, and that they are issued based on testing of prices in different regions. We are enclosing an explanation of consumer price indexes in the context of escalation clauses which may be helpful on this issue. We encourage the proponents of this amendment to utilize a more specific reference to the intended index and to clarify the scope of the limitation and its practical application. The amendment should also clarify its scope. Is it limited to the operating budgets? Does it apply to capital budgets? Does it apply to off budget appropriations?

Bell v Arel, 123 N.H. 311 (1983)

In communications to this Office the petitioners have cited the petitioned amendment's conformance with the standards discussed in *Bell v. Arel* as conclusive of the issue of whether the amendment is consistent with and not in conflict with the general laws of the State. RSA Chapter 49-C became effective in 1991, 8 years after the *Bell* decision. The *Bell* decision rests on statutory interpretation. The statutory authority of cities to adopt charters was altered by the adoption of RSA 49-C and revision of RSA 49-B. These changes limit the current applicability of the dicta in *Bell*. The Court in *Bell* stated "[w]hile citizens may, through an initiative petition, require limits on certain local spending and taxes, this power is subject to significant restrictions." *Bell*, at 316. It is also pertinent that in *Bell* the Supreme Court stated that a budget limit may not be of a character that would prevent a municipality from fulfilling its legal obligations.

The City of Nashua has numerous financial obligations imposed by the State legislature and the city charter, including the responsibility to appropriate funds for the district court, welfare programs, pensions, and other matters. See, e.g., RSA 502-A:1, XX (Supp 1979), :2(Supp. 1981), :6 (Supp 1981), :31; RSA 165:1 (Supp 1981); RSA 169-B:40 (Supp. 1982); RSA 169-C:27 (Supp. 1982); RSA 169-D:29 (Supp 1982); NASHUA CITY CHARTER Those obligations mandated by the State are clearly beyond the reach of the local government, while the obligations established by the city charter can be altered only



City of Manchester Charter Amendments – Objection September 1, 2005 Page 11 of 12

through charter amendments. Consequently, any initiative petition which seeks to limit city spending or taxes must ensure that no impairment of the city's ability to carry out its mandatory obligations will occur. Were they to guarantee continued funding of the mandated programs, such initiatives could limit or prevent new tax levies.

Bell at 316. While many State laws imposing obligations on municipalities have changed since Bell was decided, the principle, also restated in Claremont v. Craigue, remains the same. The municipal body given responsibility to fulfill the municipalities obligations under law must be entrusted with the corresponding authority to appropriate the funds necessary to fulfill those obligations. The override clause, therefore, may not impair the City's ability to carry out its mandatory obligations.

Conclusion

We object to the amendment as worded, therefore it may not be placed on the municipal ballot. "If the secretary of state, the attorney general, or the commissioner of the department of revenue administration do not approve, the proposed charter or charter amendment question shall not be placed on the municipal ballot." RSA 49-B:5-a, II.

The law requires us to suggest how the proponents of the amendment may correct inconsistencies. "The secretary of state, attorney general and commissioner of the department of revenue administration shall specify their objections in writing to the municipal clerk within the period of time allowed for review and shall offer recommendations for changes in language which would correct any inconsistencies they may find in the proposed charter or charter amendment to be voted upon." RSA 49-B:5-a, II. We have suggested that conforming the vote requirement for an override of the budget limitation by the Board of Aldermen to the vote requirements established by the general laws of the State would correct the objectionable inconsistencies.

RSA Chapter 49-B provides limited guidance on how a charter amendment proposal brought by the Mayor and Board of Aldermen may be amended in response to an objection. It also affords the governing body the opportunity to appeal our objection to the Superior Court. RSA Chapter 49-B, however, does not appear to provide a mechanism, other then re-petitioning a corrected amendment, for the alteration of a petitioned amendment. The Board of Aldermen are at liberty to adopt a corrected amendment as their own and may follow the less onerous and less time consuming process for placing it on the ballot.

We want to reiterate that we are fulfilling our duty to enforce the law as written by the Legislature. We are sympathetic to citizens who wish to affect their government through petition. We are going to send a copy of this letter to the Legislative Committees which address this area of law, to bring their attention to the concerns discussed above. Proponents of the amendment may wish to contact their legislators and advocate for an amendment to the city charter statutes to explicitly permit this type of provision.

City of Manchester Charter Amendments - Objection September 1, 2005 Page 12 of 12



While we have endeavored to provide legal authority and a clear explanation for our comments, we will be happy to answer any questions you may have and remain willing to discuss our legal analysis with the City or its legal counsel. Please feel free to contact Senior Assistant Attorney General Bud Fitch if there are any further questions or concerns.

Sincerely yours,

William M. Gardner Secretary of State.

For the Department of Revenue Administration

//S// Donald R. Borror

Assistant Director, Community Services Division

For the Attorney General's Office

Orville B. Fitch II

Senior Assistant Attorney General

Civil Bureau

bud.fitch@doj.nh.gov

(603) 271-1238

OBF/llm

cc: Office of the City Solicitor (fax 624-6528)

Karl Beisel, Chairman, Petitioners' Committee Senate Public & Municipal Affairs Committee

House Municipal & County Government Committee

91100.doc



U.S. Department of Labor Program Highlights



Fact Sheet 00-1

How to Use the Consumer Price Index for Escalation

NH DEPT OF JUSTICE

The Consumer Price Index (CPI) measures the average change in the prices paid for a market basket of goods and services. These items are purchased for consumption by the two groups covered by the index: All Urban Consumers (CPI-U) and Urban Wage Earners and Clerical Workers (CPI-W).

Escalation agreements often use the CPI—the most widely used measure of price change—to adjust payments for changes in prices. The most frequently used escalation applications are in private sector collective bargaining agreements, rental contracts, insurance policies with automatic inflation protection, and alimony and child support payments.

The following are general guidelines to consider when developing an escalation agreement using the CPI:

DEFINE clearly the base payment (rent, wage rate, alimony, child support, or other value) that is subject to escalation

IDENTIFY precisely which CPI index series will be used to escalate the base payment. This should include: The population coverage (CPI-U or CPI-W), area coverage (U.S. City Average, West Region, Chicago, etc.), series title (all items, rent of primary residence, etc.), and index base period (1982-84-100).

SPECIFY a reference period from which changes in the CPI will be measured. This is usually a single month (the CPI does not correspond to a specific day or week of the month) or an annual average. There is about a 2-week lag from the reference month to the date on which the index is released (that is, the CPI for May is released in mid-June). The CPI's for most metropolitan areas are not published as frequently as are the data for the U.S. City Average and the four regions. Indexes for the U.S. City Average, the 4 regions, 3 city-size classes, 10 region-by-size classes, and 3 major metropolitan areas (Chicago, Los Angeles, and New York) are published

monthly. Indexes for the remaining 23 published metropolitan areas are available only on a bimonthly or semiannual basis. Contact the BLS address at the end of this fact sheet for information on the frequency of publication for the 26 metropolitan areas.

STATE the frequency of adjustment. Adjustments are usually made at fixed time intervals, such as quarterly, semiannually, or, most often, annually.

DETERMINE the formula for the adjustment calculation. Usually the change in payments is directly proportional to the percent change in the CPI index between two specified time periods. Consider whether to make an allowance for a "cap" that places an upper limit on the increase in wages, rents, etc., or a "floor" that promises a minimum increase regardless of the percent change (up or down) in the CPI.

PROVIDE a built-in method for handling situations that may arise because of major CPI revisions or changes in the CPI index base period. The Burcau always provides timely notification of upcoming revisions or changes in the index base.

The CPI and escalation: Some points to consider

The CPI is calculated for two population groups: All Urban Consumers (CPI-U) and Urban Wage Earners and Clerical Workers (CPI-W). The CPI-U represents about 87 percent of the total U.S. population and is based on the expenditures of all families living in urban areas. The CPI-W is a subset of the CPI-U and is based on the expenditures of families living in urban areas who meet additional requirements related to employment: more than one-half of the family's income has to be earned from clerical or hourly-wage occupations. The CPI-W represents about 32 percent of the total U.S. population.

This is one of a series of fact sheets highlighting U.S. Department of Labor programs, It is intended as a general description only and does not carry the force of legal opinion.

There can be small differences in movement of the two indexes over short periods of time because differences in the spending habits of the two population groups result in slightly different weighting. The long-term movements in the indexes are similar. CPI-U and CPI-W indexes are calculated using measurement of price changes of goods and services with the same specifications and from the same retail outlets. The CPI-W is used for escalation primarily in blue-collar cost-of-living adjustments (COLA's). Because the CPI-U population coverage is more comprehensive, it is used in most other escalation agreements.

The 26 metropolitan areas for which BLS publishes separate index series are by-products of the U.S. City Average index. Metropolitan area indexes have a relatively small sample size and, therefore, are subject to substantially larger sampling errors. Metropolitan area and other subcomponents of the national indexes (regions, size-classes) often exhibit greater volatility than the national index. BLS strongly recommends that users adopt the U.S. City Average CPI for use in escalator clauses.

The U.S. City Average CPI's are published on a seasonally adjusted basis as well as on an unadjusted basis. The purpose of scasonal adjustment is to remove the estimated effect of price changes that normally occur at the same time and in about the same magnitude every year (e.g., price movements due to the change in weather patterns, model change-overs, holidays, end-of-scason sales, etc.). The primary use of seasonally adjusted data is for current economic analysis. In addition, the factors that are used to seasonally adjust the data are updated annually. Also, scasonally adjusted data that have been published earlier are subject to revision for up to 5 years after

their original release. For these reasons, the use of seasonally adjusted data in escalation agreements is inappropriate.

Escalation agreements using the CPI usually involve changing the base payment by the percent change in the level of the CPI between the reference period and a subsequent time period. This is calculated by first determining the index point change between the two periods and then determining the percent change. The following example illustrates the computation of percent change:

CPI for current period	136.0
Less CPI for previous period	129.9
Equals index point change	6.1
Divided by previous period CPI	- 129,9
Equals	0.047
Result multiplied by 100	0.047 X 100
Equals percent change	4.7

The Bureau of Labor Statistics neither encourages nor discourages the use of price adjustment measures in contractual agreements. Also, while BLS can provide technical and statistical assistance to parties developing escalation agreements, we can neither develop specific wording for contracts nor mediate legal or interpretive disputes which might arise between the parties to the agreement.

For any additional information about the CPI, please call (202) 691-7000, or write to:

Bureau of Labor Statistics Office of Prices and Living Conditions 2 Massachusetts Avenue, NE., Room 3615 Washington, DC 20212-0001







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1. What is the CPI?

The Consumer Price Index (CPI) is a measure of the average change over time in the prices paid by urban consumers for a market basket of consumer goods and services.

2. How is the CPI used?

The CPI affects nearly all Americans because of the many ways it is used. Following are major uses:

As an economic indicator, <u>More</u>, As a deflator of other economic series, <u>More</u>, As a means of adjusting dollar values, <u>More</u>,

3. Whose buying habits does the CPI reflect?

The CPI reflects spending patterns for each of two population groups: all urban consumers and urban wage earners and clerical workers. The all urban consumers group represents about 87 percent of the total U.S. population. It is based on the expenditures

of almost all residents of urban or metropolitan areas, including professionals, the self-employed, the poor, the unemployed and retired persons as well as urban wage earners and clerical workers. Not included in the CPI are the spending patterns of persons living in rural nonmetropolitan areas, farm families, persons in the Armed Forces, and those in institutions, such as prisons and mental hospitals. The price change experience of the all urban consumer group is measured by two indexes, namely the traditional Consumer Price Index for All Urban Consumers (CPI-U) and the newer Chained Consumer Price Index for All Urban Consumers (C-CPI-U). (See answer to Question 4 for an explanation of the differences between the CPI-U and the C-CPI-U.)



The CPI-W is based on the expenditures of households included in the CPI-U definition that also meet two requirements: More than one-half of the household's income must come from clerical or wage occupations and at least one of the household's earners must have been employed for at least 37 weeks during the previous 12 months. The CPI-W's population represents about 32 percent of the total U.S. population and is a subset, or part, of the CPI-U's population.

4. Is the CPI a cost-of-living index?

The CPI frequently is called a cost-of-living index, but it differs in important ways from a complete cost-of-living measure. BLS has for some time used a cost-of-living framework in making practical decisions about questions that arise in constructing the CPI. A cost-of-living Index is a conceptual measurement goal, however, not a straightforward alternative to the CPI. A cost-of-living index would measure changes over time in the amount that consumers need to spend to reach a certaintility level or standard of living. Both the CPI and a cost-of-living index would reflect changes in the prices of goods and services, such as food and clothing that are directly purchased in the marketplace; but a complete cost-of-living index would go beyond this to also take into account changes in other governmental or environmental factors that affect consumers' well-being. It is very difficult to determine the proper treatment of public goods, such as safety and education, and other broad concerns, such as health, water quality, and crime that would constitute a complete cost-of-living framework More.

5. Does the CPI measure my experience with price change?

Not necessarily. It is important to understand that BLS bases the market baskets and pricing procedures for the U and W populations on the experience of the relevant average household, not on any specific family or individual. It is unlikely that your experience will correspond precisely with either the national indexes or the indexes for specific cities or regions More.

6. How is the CPI market basket determined?

The CPI market basket is developed from detailed expenditure information provided by families and individuals on what they actually bought. For the current CPI, this information was collected from the Consumer Expenditure Survey over the two years 2001 and 2002. In each of those years, about 10,000 families from around the country provided information on their spending habits in a series of quarterly interviews. To collect information on frequently purchased items such as food and personal care products, another 7,500 families in each of the 2 years kept diaries listing everything they bought during a 2-week period.

Altogether, more than 30,000 individuals and families provided expenditure information for use in determining the importance, or weight, of the more than 200 categories in the CPI index structure.

7. What goods and services does the CPI cover?

The CPI represents all goods and services purchased for consumption by the reference population (U or W) BLS has classified all expenditure items into more than 200 categories, arranged into eight major groups. Major groups and examples of categories in

FOOD AND BEVERAGES (breakfast cereal, milk, coffee, chicken, wine, service meals and snacks) HOUSING (rent of primary residence, owners' equivalent rent, fuel oil, bedroom furniture) APPAREL (men's shirts and sweaters, women's dresses, jewelry)
TRANSPORTATION (new vehicles, airline fares, gasoline, motor vehicle insurance)

MEDICAL CARE (prescription drugs and medical supplies, physicians' services, eyeglasses and eye care, hospital

RECREATION (televisions, pets and pet products, sports equipment, admissions);

EDUCATION AND COMMUNICATION (college tuition, postage, telephone services, computer software and accessories); OTHER GOODS AND SERVICES (tobacco and smoking products, haircuts and other personal services, funeral

Also included within these major groups are various government-charged user fees, such as water and sewerage charges, auto registration fees, and vehicle tolls. In addition, the CPI includes taxes (such as sales and excise taxes) that are directly associated with the prices of specific goods and services. However, the CPI excludes taxes (such as income and Social Security taxes) not directly associated with the purchase of consumer goods and services.

The CPI does not include investment items, such as stocks, bonds, real estate, and life insurance. (These items relate to savings and not to day-to-day consumption expenses.)

For each of the more than 200 Item categories, using scientific statistical procedures, the Bureau has chosen samples of several hundred specific items within selected business establishments frequented by consumers to represent the thousands of varieties available in the marketplace. For example, in a given supermarket, the Bureau may choose a plastic bag of golden delicious apples, U.S. extra fancy grade, weighing 4.4 pounds to represent the Apples category.

8. How are CPI prices collected and reviewed?

Each month, BLS data collectors called economic assistants visit or call thousands of retail stores, service establishments, rental units, and doctors' offices, all over the United States to obtain information on the prices of the thousands of items used to track



and measure price changes in the CPI. These economic assistants record the prices of about 80,000 items each month representing a scientifically selected sample of the prices paid by consumers for the goods and services purchased.

During each call or visit, the economic assistant collects price data on a specific good or service that was precisely defined during an earlier visit. If the selected item is available, the economic assistant records its price. If the selected item is no longer available, or if there have been changes in the quality or quantity (for example, eggs sold in packages of 8 when they previously had been sold by the dozen) of the good or service since the last time prices had been collected, the economic assistant selects a new item or records the quality change in the current item.

The recorded information is sent to the national office of BLS where commodity specialists who have detailed knowledge about the particular goods or services priced review the data. These specialists check the data for accuracy and consistency and make any necessary corrections or adjustments which can range from an adjustment for a change in the size or quantity of a packaged item to more complex adjustments based upon statistical analysis of the value of an item's features or quality. Thus, the commodity specialists strive to prevent changes in the quality of items from affecting the CPI's measurement of price change.

9. How is the CPI calculated?

The CPI is a product of a series of interrelated samples. First, using data from the 1990 Census of Population, BLS selected the urban areas from which data on prices were collected and chose the housing units within each area that were eligible for use in the shelter component of the CPI. The Census of Population also provided data on the number of consumers represented by each area selected as a CPI price collection area. Next, another sample (of about 16,800 families each year) served as the basis for a Point-of-Purchase Survey that identified the places where households purchase various types of goods and service.

10. How are taxes treated in the CPI?

Certain taxes are included in the CPI, namely, taxes that are directly associated with the purchase of specific goods and services (such as sales and excise taxes). Government user fees are also included in the CPI. For example, toll charges and parking fees are included in the transportation category and an entry fee to a national park would be included as part of the admissions index. In addition, property taxes should be reflected indirectly in the BLS method of measuring the cost of the flow of services provided by housing shelter, which we called *owners' equivalent rent*, to the extent that these taxes influence rental values. Taxes not directly associated with specific purchases, such as income and Social Security taxes, are excluded, as are the government services paid for through those taxes.

For certain purposes, one might want to define price indexes to include, rather than exclude, income taxes. Such indexes would provide an answer to a question different from the one to which the present CPI is relevant, and would be appropriate for different uses.

11. How do I read or interpret an index?

An Index is a tool that simplifies the measurement of movements in a numerical series. Most of the specific CPI indexes have a 1982-84 reference base. That is, BLS sets the average index level (representing the average price level) for the 36-month period covering the years 1982, 1983, and 1984 equal to 100. BLS then measures changes in relation to that figure. An index of 110, for example, means there has been a 10-percent increase in price since the reference period; similarly an index of 90 means a 10-percent decrease. Movements of the index from one date to another can be expressed as changes in index points (simply, the difference between index levels), but it is more useful to express the movements as percent changes. This is because Index points are affected by the level of the index in relation to its base period, while percent changes are not.

In the table that follows, item A increased by half as many index points as item B between Year I and Year II. Yet, because of the different starting figures, both had the same percent change; that is, prices advanced at the same rate. By contrast, items B and C show the same change in index points, but the percent change is greater for item C because of its lower starting value.

	Item A	Item B	Item C
Year I	112.5	225.0	110.0
Year II	121.5	243.0	128.0
Change in Index points	9.0	18.0	18.0
Percent change	9.0/112.5 x 100 = 8.0	18.0/225.0 x 100 = 8.0	18.0/110.0 x 100 = 16.4

Historically, BLS has updated its reference periods every 10 years or so.

12. Is the CPI the best measure of inflation?

Inflation has been defined as a process of continuously rising prices or equivalently, of a continuously falling value of money.

Various indexes have been devised to measure different aspects of inflation. The CPI measures inflation as experienced by consumers in their day-to-day living expenses; the Producer Price Index (PPI) measures inflation at earlier stages of the production and marketing process; the Employment Cost Index (ECI) measures it in the labor market; the BLS International Price Program measures it for imports and exports; and the Gross Domestic Product Deflator (GDP Deflator) measures combine

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the experience with inflation of governments (Federal, State and local), businesses, and consumers. Finally, there are specialized measures, such as measures of interest rates and measures of consumers' and business executives' expectations of inflation.

The "best" measure of inflation for a given application depends on the intended use of the data. The CPI is generally the best measure for adjusting payments to consumers when the intent is to allow consumers to purchase, at today's prices, a market basket of goods and services equivalent to one that they could purchase in an earlier period. The CPI also is the best measure to use to translate retail sales and hourly or weekly earnings into real or inflation-free dollars.

13. Which index is the "Official CPI" reported in the media?

Each month, BLS releases thousands of detailed CPI numbers to the media. However the media usually focus on the broadest, most comprehensive CPI: the Consumer Price Index for All Urban Consumers (CPI-U) for the U.S. City Average for All Items, 1982-84=100. These data are reported on either a seasonally adjusted or an unadjusted basis. Often, the media will report some, or all, of the following:

- 1. Index level, not seasonally adjusted. (for example, May 2001 = 177.7).
- 2. 12-month percent change, not seasonally adjusted. (for example, May 2000 to May 2001 = 0.5 percent).
- 3. 1-month percent change on a seasonally adjusted basis. (for example, from April 2001 to May 2001 = 0.5 percent).
- Annual rate of percent change so far this year (for example, from December 2000 to May 2001 if the rate of increase over the first 5 months of the year continued for the full year, after the removal of seasonal influences, the rise would be 3.9 percent).
- annual rate based on the latest seasonally adjusted 1-month change. For example, if the rate rom April 2001 to May 2001 continued for a full 12 months, then the rise, compounded, would be 6.3 percent.

14. What Index should I use for escalation?

The decision to employ an escalation mechanism, as well as the choice of the most suitable index, is up to the user. When drafting the terms of an escalation provision for use in a contract to adjust future payments, both legal and statistical questions can arise. While BLS cannot help in any matters relating to legal questions, it does provide basic technical and statistical assistance to users who are developing indexing procedures. More.

15. When should I use seasonally adjusted data?

By using seasonally adjusted data, economic analysts and the media find it easier to see the underlying trend in short-term price changes. It is often difficult to tell from raw (unadjusted) statistics whether developments between any 2 months reflect changing economic conditions or only normal seasonal patterns. Therefore, many economic series, including the CPI, are adjusted to remove the effect of seasonal influences—those which occur at the same time and in about the same magnitude every year. Among these influences are price movements resulting from changing climatic conditions, production cycles, changeovers of models, and holidays.

BLS annually reestimates the factors that are used to seasonally adjust CPI data, and seasonally adjusted indexes that have been published earlier are subject to revision for up to 5 years after their priginal release. Therefore, unadjusted data are more appropriate for escalation purposes.

16. What area indexes are published and how often?

Besides monthly publication of the national (or U.S. City Average) CPI-U, C-CPI-U and CPI-W, indexes are also published by area for the CPI-U and CPI-W. For the C-CPI-U, data for all items and 27 components are available at the national level only; for the CPI-U and CPI-W. For the C-CPI-U, data for all items and 27 components are available at the national level only; for the CPI-U and CPI-W indexes are published for the four Census regions; Northeast, Midwest (formerly North Central), South and West. Monthly Indexes are also published for urban areas classified by population size—all metropolitan areas over 1.5 million, metropolitan areas smaller than 1.5 million, and all nonmetropolitan urban areas. Indexes are available as well within each region, cross-classified by area population size. For the Northeast and West, however, indexes for non-metropolitan areas are not available. BLS also publishes indexes for 27 local areas. These indexes are byproducts of the national CPI program. Each local index has a much smaller sample size than the national or regional indexes, and is, therefore, subject to substantially more sampling and other measurement error. As a result, local area indexes are more volatile than the national or regional indexes, and BLS strongly urges users to consider adopting the impact of local economic conditions on consumers' experience with price change. Local area data are available on the following schedule.

BLS publishes three major metropolitan areas monthly:

Chicago-Gary-Kenosha, IL-IN-WI Los Angeles-Riverside-Orange County, CA New York-Northern NJ-Long Island, NY-NJ-CT-PA

Data for the following additional 11 metropolitan areas are published every other month [on an odd (January, March, etc.) or even (February, April, etc.) month schedule] for the following areas:

Atlanta, GA (even)
Boston-Brockton-Nashua, MA-NH-ME-CT (odd)
Cleveland-Akron, OH (odd)
Dallas-Fort Worth, TX (odd)
Detroit-Ann Arbor-Flint, MI (even)
Houston-Galveston-Brazoria, TX (even)

http://www.bls.gov/cpi/cpifaq.htt



Miami-Fort Lauderdale, FL (even)
Philadelphia-Wilmington-Atlantic City, PA-NJ-DE-MD (even)
San Francisco-Oakland-San Jose, CA (even)
Seattle-Tacoma-Bremerton, WA (even)
Washington-Baltimore, DC-MD-VA-WV (odd)

(Note: The designation even or odd refers to the month during which the area's price change is measured. Because of the time needed for processing, data are released 2 to 3 weeks into the following month.)

Data are published for another group of 13 metropolitan areas on a semiannual basis. These indexes, which refer to the arithmetic average for the 6-month periods from January through June and July through December, are published with the release of the CPI for July and January, respectively, in August and February for the following areas:

Anchorage, AK
Cincinnati-Hamilton, OH-KY-IN
Denver-Boulder-Greeley, CO
Honolulu, HI
Kansas City, MO-KS
Milwaukee-Racine, WI
Minneapolis-St, Paul, MN-WI
Pittsburgh, PA
Portland-Salem, OR-WA
St. Louis, MO-IL
San Diego, CA
Tampa-St. Petersburg-Clearwater, FL

17. What area CPI should I use if there is no CPI for the area I live in?

Although the BLS can provide some guidance on this question, users must make the final decision.

As noted in the answers to Questions 14 and 16, BLS strongly urges the use of the national or regional CPIs for use in escalator clauses. These indexes are more stable and subject to less sampling and other measurement error than are area indexes and, therefore, are more statistically reliable.

18. Can the CPIs for individual areas be used to compare living costs among the areas?

No, an individual area index measures how much prices have changed over a specific period in that particular area; it does not show whether prices or living costs are higher or lower in that area relative to another. In general, the composition of the market basket and relative prices of goods and services in the market basket during the expenditure base period varies substantially across areas. More.

19. What types of data are published?

Many types of data published as outputs from the CPI program. The most popular are indexes and percent changes. Requested less often are relative importance (or relative expenditure weight) data, base conversion factors (to convert from one CPI reference period to another), seasonal factors (the monthly factors used to convert unadjusted indexes into seasonally adjusted indexes), and average food and energy prices. Index and price change data are available for the U.S. city average (or national average), for various geographic areas (regions and metropolitan areas), for national population size classes of urban areas, and for cross-classifications of regions and size classes. Indexes for various groupings of items are available for all geographic areas and size classes.

Individual indexes are available for more than 200 items (for example, apples, men's shirts, airline fares), and more than 120 different combinations of items (for example, fruits and vegetables, food at home, food and beverages, and All items), at the national or U.S. city average level. BLS classifies consumer items into eight major groups: food and beverages, housing, apparel, transportation, medical care, recreation, education and communication, and other goods and services. (Some indexes are available from as far back as 1913.)

Each month, indexes are published along with short-term percent changes, the latest 12-month change and, at the national item and group level, unadjusted and (where appropriate) seasonally adjusted percent changes (and seasonal factors), together with annualized rates of change. The annualized rates indicate what the rate of change would be for a 12-month period, if a price change measured for a shorter period continued for a full 12 months.

The answer to **question 16** provides information about the areas and size classes for which indexes are published. For areas, BLS publishes less detailed groupings of items than it does for the national level. The following table illustrates this point:

Atlanta, GA

Food and beverages Food U.S. City Average

All items

Food and beverages

Food

Food at home

Food at home

Cereals and bakery products

Cereals and cereal products

Flour and prepared flour mixes

The defined of

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Breakfast cereal Rice, pasta, and corn meal

Rice

Bakery products Bread

White Bread Other Breads

Fresh biscuits, rolls, muffins Cakes, cupcakes, and cookles

> Cookies Fresh cakes and cupcakes

Other bakery products Fresh sweet rolls. coffeecakes, and doughnuts Crackers. bread, and ccacker products Frozen and refrigerated bakery products, pies, tarts, turnovers

Annual average indexes and percent changes for these groupings are published at the national and local levels,

Semiannual average indexes and percent changes for some of these groupings are also published.

Each month, BLS publishes average price data for some food items (for the U.S. and four regions) and for some energy items (for the U.S., four regions, three sizeclasses, 10 cross-classifications of regions and size classes, and 14 metropolitan areas).

20. What are some limitations of the CPI?

The CPI is subject to both limitations in application and limitations in measurement.

Limitations of application

The CPI may not be applicable to all population groups. For example, the CPI-U is designed to measure the experience with price change of the U.S. urban population and thus may not accurately reflect the experience of people living in rural areas. Also, the CPI does not produce official estimates for the rate of inflation experienced by subgroups of the population, such as the elderly or the poor. (BLS does produce and release an experimental index for the elderly population; because of the significant limitations of this experimental index, it should be interpreted with caution.)

As noted in the answer to <u>question 18</u>, the CPI cannot be used to measure differences in price levels or living costs between one place and another; it measures only time-to-time changes in each place. A higher index for one area does not necessarily mean that prices are higher there than in another area with a lower index. It merely means that prices have risen faster since the two areas common reference period.

The CPI cannot be used as a measure of total change in living costs because changes in these costs are affected by (such as social and environmental changes and changes in income taxes) that are beyond the definitional scope of the index and so are excluded.

Limitations in measurement

Limitations in measurement can be grouped into two basic types, sampling errors and non-sampling errors.

Sampling errors. Because the CPI measures price change based on a sample of items, the published indexes differ somewhat from what the results would be if actual records of all retail purchases by everyone in the index population could be used to compile the index. These estimating or sampling errors are limitations on the precise accuracy of the index, not mistakes in calculating the index. The CPI program has developed measurements of sampling error, which are updated and published annually in the CPI Detailed Report. An increased sample size would be expected to increase accuracy, but it would also increase CPI production costs. The CPI sample design allocates the sample in a way that maximizes the accuracy of the index, given the

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funds available.

Non sampling errors. These errors occur from a variety of sources. Unlike sampling errors, they can cause persistent bias in the measurement of the index. Non sampling errors are caused by problems of price data collection, logistical lags in conducting surveys, difficulties in defining basic concepts and their operational implementation, and difficulties in handling the problems of quality change. Non sampling errors can be far more hazardous to the accuracy of a price index than sampling errors. BLS expends much effort to minimize these errors. Highly trained personnel ensure the comparability of quality of items from period (see answer to guestion 8) collection procedures are extensively documented. The CPI program has an ongoing research and evaluation program, to identify and implement improvements in the index.

21. Will the CPI be updated or revised in the future?

Yes. The CPI will need revisions, as long as there are significant changes in consumer buying habits or shifts in population distribution or demographics. By developing annual Consumer Expenditure Surveys and Point-of-Purchase Surveys, the Bureau has the flexibility to monitor changing buying habits in a timely and cost-efficient manner. In addition, the census conducted every 10 years by the Department of Commerce provide information that enables the Bureau to reselect a new geographic sample that accurately reflects the current population distribution and other demographic factors.

As a matter of policy, BLS is continually researching improved statistical methods. Thus, even between major revisions, further improvements to the CPI are made. For example, until recently, the Bureau would continue to price the brand-name version of a prescription drug even after it lost its patent protection if the brand-name drug was still sold in the selected outlet. Starting in January 1995, BLS changed this policy. Now, six months after a drug loses its patent protection, a unique item to be priced is reselected from all therapeutically equivalent drugs (including the original) sold in the selected retail outlet. This approach gives generic versions of the drug a chance to be selected as a substitute. BLS walts until six months after the patent expires to give the emerging generic drugs time to gain market share, because the chance of selection is proportional to the sales of each version of the drug in the retail outlet. The new procedure provides a better reflection of consumers' experience with prescription drug prices, because many consumers switch to generic versions of drugs as they become available.

22. How can I get information on the CP1?

Information on the CPI is available from BLS electronically, through subscriptions to publications, and via telephone and fax, through automated recordings. Information specialists are also available in the national and regional offices to provide assistance.

Electronic access to CPI data

BLS on the Internet. Through the Internet, BLS provides free, easy, and continuous access to almost all published CPI data and press releases. The most recent month's CPI is made available immediately at the time of its release. In addition, a database called LABSTAT, containing current and historical data on the CPI is accessible. Data and press releases from other BLS surveys also are available. This material is accessible via the World Wide Web (WWW), and File Transfer Protocol (FTP) as described next. Send E-mail to labstat.helpdesk@bls.gov for help on how to use any of these systems.

World Wide Web. The BLS Web site provides easy access to LABSTAT, as well as links to program-specific home pages. In addition to furnishing data, the CPI home page provides other CPI information, including a brief explanation of methodology, frequently asked questions and answers, a list of contacts for further information, and explanations of how the CPI handles special Items, such as medical care and housing. Furthermore, CPI press releases and historical data for metropolitan areas can be accessed, by linking to the regional office homepages from the main BLS Web site.

FTP. This tool provides access to CPI LABSTAT data, as well as documentation and press release files organized in hierarchical directories. Connect to www.bis.gov using FTP, log on as ANONYMOUS and use your complete Internet e-mail address as the password.

Subscriptions to CPI publications

E-mail subscription service. The latest U.S. average and local Consumer Price Indexes can be delivered directly to a subscriber's e-mailaddress on the morning of their release. Just subscribe to one of the nine national and regional CPI subscriptions offered on the BLS News Service (http://www.bis.gov/bis/list.htm).

Summary data. Monthly, two-page publication containing 1- and 12-month percent changes for the U.S. City Average Consumer Price Index for All Urban Consumers (CPI-U) and Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) index series. The All Items index data for each local area are also included. To be added to the mailing list, write to: Office of Publications, Bureau of Labor Statistics, 2 Massachusetts Avenue, NE., Room 2850, Washington, DC 20212-0001, or call (202) 691-5200 or any of the BLS regional offices at the end of this document.

CPI Detailed Report. The most comprehensive report of the Consumer Price Index, this publication may be ordered by writing to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA, 15250-7954, or by calling (202) 512-1800. Subscriptions cost \$47 per year.

Monthly Labor Review (MLR). The MLR provides selected CPI data included in a monthly summary of BLS data and occasional articles and methodological descriptions that are too extensive for inclusion in the CPI Detailed Report The MLR costs \$45 per year and may be ordered by writing to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA, 15250-7954, or by calling (202) 512-1800. The MLR home page has issues of the MLR back to 1988.

Recorded CPI data Summary CPI data are provided 24 hours a day on recorded messages. Detailed information on the CPI is available by calling (202) 691-5200. A touch-tone telephone is recommended, as that device allows the user to select specific indexes from lists of available data.

http://www.bls.gov/cpi/cpifaq.htm

Recorded summaries of CPI are also available by calling any of the following metropolitan area CPI hotlines listed below.

Area Hotline Numbers

Summaries typically include data for the U.S> City Average, as well as the specified area. Recordings are approximately 3 minutes in length and are available 24 hours a day, 7 days a week.

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Anchorage	(907) 271-2770
Atlanta	(404) 331-3415
Baltimore	(410) 962-4898
Boston	(617) 565-2325
Chicago	(312) 353-1883
Cincinnati	(513) 684-2349
Cleveland	(216) 522-3852
Dallas	(214) 767-6970
Denver	(303) 844-1726
Detroit	(313) 226-7558
Hanolulu	(808) 541-2808
Indianapolis	(317) 226-7885
Kansas City	(816) 426-2481
Los Angeles	(310) 235-6884
Miami	(305) 358-2305
Milwaukee	(414) 276-2579
Minneapolis-St. Paul	(612) 725-3580
New York	(212) 337-2400
Philadelphia	(215) 656-3948
Pittsburgh	(412) 644-2900
Portland	(503) 231-2045
St. Louis	(314) 539-3581
San Diego	(619) 557-6538
San Francisco	(415) 975-4350
Seattle	(206) 553-0645
Washington DC	(202) 691-6994
(202) 691-5200	
(410) 692-4898	

Other sources of CPI data

Technical information is available during normal working hours, Monday through Friday (Eastern Time), by calling (202) 691-7000 or any of the regional offices.

Fax on Demand. A wide veriety of BLS information and data, including CPI, are available from the BLSReady Facts catalog via fax on demand. CPI documents from Ready Facts that are available around the clock include the monthly CPI press release, selected national, regional and metropolitan area historical summaries, and some technical information. The latest CPI information is posted during the morning of the day the index is released. To have the latestReady Facts catalog sent to you, call (202) 691-6325, and then follow the instructions given. Each regional office also has a fax system in place; these systems

http://www.bls.gov/cpi/cpifaq.htm

Frequently Asked Questions



include all information available from the national catalog, in addition to region-specific information on the CPI. Phone and fax-on-demand numbers for the nine regional offices are as follows:

	Fax-on-Demand	Telephone
Washington DC Bureau of Labor Statistics Office of Prices and Living Conditions 2 Massachusetts Avenue, NE Washington, DC 20212-0001	(202) 691-6325	(202) 691-7000
Boston Bureau of Labor Statistics Economic Analysis and Information JFK Federal Bidg., E-310 Boston, MA 02203	(617) 565-9167	(617) 565-2327
Philadelphia Bureau of Labor Statistics Economic Analysis and Information The Curtis Center Suite 610 East 170 South Independence Mall West Philadelphia, PA 19106-3305	(215) 597-5153	(215) 597-3282
New York Bureau of Labor Statistics Economic Analysis and Information 201 Varick Street, Room 808 New York, NY 10014-4811	(212) 337-2412	(212) 337-2400
Atlanta Bureau of Labor Statistics Economic Analysis and Information 61 Forsyth Street, SW., Room 7T50 Atlanta, GA 30303	(404) 331-3403	(404) 331-3415
Chicago Bureau of Labor Statistics Economic Analysis and Information 230 S. Dearborn Street, 9th Floor Chicago, IL 60604	(312) 353-1880	(312) 353-1880
Kansas City Bureau of Labor Statistics Economic Analysis and Information 1100 Main Street, Suite 600 Kansas City, MO 64105-2112	(815) 426-3152	(816) 426-2481
Dallas Bureau of Labor Statistics Economic Analysis and Information 525 Griffin Street, Room 221 Dallas, TX 75202	(214) 767-9613	(214) 767-6970
San Francisco Bureau of Labor Statistics Economic Analysis and Information P.O. Box 193766 San Francisco, CA 94119-3766	(415) 975-4350	(415) 975-4350

Historical tables. These include all published indexes for each of the detailed CPI components. They are available via the Internet, by calling (202) 691-7000 in the national office, or by contacting any of the regional offices.

Descriptive publications. These publications describe the CPI and ways to use it. They include (1) simple fact sheets discussing specific topics about the CPI, (2) this pamphlet with its broad, nontechnical overview of the CPI in a question and answer format, and (3) a quite technical and thorough description of the CPI and its methodology. These publications are available upon request by calling (202) 691-7000, and many are included on the CPI homepage on the Internet.

Special publications. Also available are various special publications, such asRelative Importance of Components in the Consumer Price Index, and materials describing the annual revisions of seasonally adjusted CPI data. For more information, call (202) 691-7000.

Last Modified Date: November 12, 2004

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Frequently Asked Questions

http://www.bls.gov/cpi/cpifaq.htm

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U.S. Bureau of Labor Statistics Division of Consumer Prices and Price Indexes Suite 3130 2 Massachusetts Avenue, NE Washington, DC 20212-0001

URL: http://www.bls.gov/CPI
Phone: (202) 691-7000
Fax: (202) 691-6325
CPI data questions: cpi info@bls.gov
Technical (web) questions: webmaster@bls.gov
Other comments: feedback@bls.gov





City of Manchester Department of Finance

One City Hall Plaza Manchester, New Hampshire 03101 Phone: (603) 624-6460

Fax: (603) 624-6549

August 31, 2005

Board of Mayor and Aldermen One City Hall Plaza Manchester, NH 03101

Dear Honorable Board:

Enclosed please find correspondence from Mr. Louis N. Vinios of JPA Corporation, Real Estate Development & Management. JPA is expressing interest in purchasing the Center of New Hampshire garage from the City. Earlier this year, at the Boards direction, Staff solicited bids for the sale of this facility. However, at that time, no bids were received. You may recall that JPA, is the current developer of the Center of New Hampshire and has a long-term lease hold interest in the garage as well as a purchase option under the terms of the existing contract.

Mr. Vinios is interested in expediting the purchase of the garage to take advantage of a federal tax opportunity resulting from the sale of properties in Massachusetts. In order for the City to respond to Mr. Vinios' request, in accordance with the timetable requested, an independent appraisal would need to be commissioned. In this regard, the Board would need to authorize the transfer of an amount not to exceed \$10,000.00 from Contingency to the Manchester Economic Development Office, to cover costs of an appraisal and any other expenses associated with the possible sale of the garage.

Both the City Solicitor and Finance Officer are able to answer any questions relating to this matter.

Respectfully Submitted,

Kevin A. Clougherts

Finance Officer

Cc: Louis Vinios

City Clerk Tom Clark

Paul Borek

Tom Lolicata



August 25, 2005

Kevin Clougherty Director of Finance One City Hall Plaza East Manchester, NH 03101

Dear Kevin,

Thank you for taking the time to meet with us yesterday. I am writing to confirm our interest in pursuing the purchase of the Center of New Hampshire garage from the City of Manchester. Although we have a long term (60 years) remaining on our leasehold interest and a purchase option, it seems like it may be a mutually good time for us to acquire the garage.

As we have explained, if we are able to come to terms we must complete the transaction by January 30, 2006 as a result of a Section 1031 exchange in which we are engaged.

Sincerely,

Louis N. Vinios



City Of Manchester Welfare Department

1528 Elm Street Manchester, NH 03101-1350 Tel. (603) 624-6484 FAX (603) 624-6423

Paul R. R. Martineau Commissioner

August 11, 2005

Board of Mayor and Aldermen C/o City Clerk One City Hall Plaza Manchester, N. H. 03101

Dear Board of Aldermen:

I am writing to get the approval of the Board for having granted my employee, Patricia Van DenBerghe, more than 10 days off without pay intermittently over an extended period of time. I was unaware that Ordinance 33.076 required Board approval for absences that exceed 10 working days during any calendar year. The Human Resources Director brought this to my attention yesterday. I am asking the Board for an official vote of approval concerning this matter.

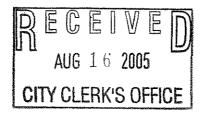
I approved the time off without pay to accommodate a valued employee. I did this with good intentions knowing our continued operation would not be impeded and a resulting monetary saving would be realized.

This is the only time during my tenure that this situation has arisen. I want to assure the Board that this occurrence will not be repeated.

Sincerely,

Paul R. R. Martineau Welfare Commissioner

CC: Virginia A. Lamberton, Human Resources Director







ATTORNEYS AT LAW

August 18, 2005

JAMES F. MERRILL 603.695.8561 JMERRILL@DEVINEMILLIMET.COM

Hand Delivery

Leo Bernier, Clerk City of Manchester One City Hall Plaza Manchester, NH 03101

Re: Petition Concerning Langer Place, Inc.

Dear Mr. Bernier:

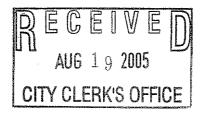
Find enclosed a Petition of Manchester Downtown Visions, LLC relative to Site Plan approval granted to Langer Place, Inc. Please schedule this petition for hearing at the next regularly scheduled meeting of the Board of Mayor and Aldermen.

Very truly yours,

James F. Merrill

JFM:lphg

enclosure



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CITY OF MANCHESTER BOARD OF MAYOR AND ALDERMEN PETITION OF MANCHESTER DOWNTOWN VISIONS, LLC. TO REVOKE CONSENT GRANTED TO LANGER PLACE, INC.

MANCHESTER DOWNTOWN VISIONS, LLC a New Hampshire limited liability company ("Petitioner"), files this petition to revoke its consent ("Petition") previously granted to Langer Place, Inc. ("Langer") concerning a site plan previously submitted by Langer in April 2005, SP-05-2005 on the planning board agenda ("Site Plan"). The purpose of the Site Plan was to effect the construction of a paved parking lot to accommodate approximately 232 parking spaces. The Petitioner eventually granted its assent to the Langer Site Plan in good faith, and in reliance on express assurances by Langer that certain conditions would be met, all as set forth in greater detail below. Today, Langer has not only failed to meet these conditions, but has revoked its previous understanding with Petitioner's Buyer without cause and has refused to deal in good faith to resolve this matter. This issue threatens the viability of the proposed restaurant development adjacent to Fisher Cats Stadium, which as you know, is an essential component of the Riverfront development. Accordingly, Petitioner is left with no option but to revoke its previously granted consent, and request the intervention of the Board of Mayor and Aldermen to prevent Langer from its unjust enrichment at Petitioner's expense. In support of this Petition, the Petitioner states as follows:

1. The Petitioner is a New Hampshire limited liability company which owns a certain parcel of land situated on Road Parcel C in the City of Manchester, adjacent to Fisher Cat Stadium and the Langer property at 55 South Commercial Street, all as set forth in a quitclaim deed from the City of Manchester to Petitioner dated October 1, 2004 and recorded in the Hillsborough County Registry of Deeds at Book 7335, Page 0420 ("Property").

- 2. In February 2005, Langer submitted the Site Plan application to the Manchester Planning Board, seeking to redevelop the southern portion of its parking area, to accommodate approximately 232 parking spaces. As part of the Site Plan, Langer sought to place a curb cut on the newly developed cul-de-sac on Line Drive Way, which would eliminate seven (7) parking spaces from the existing site plan which made parking spaces available for the benefit of Petitioner's property.
- 3. On March 10, 2005, Frank C. Thomas, Manchester's Director of Public Works, wrote a letter to Robert S. MacKenzie, Manchester's Director of Planning and Community Development. In this letter, Mr. Thomas indicated that his office would approve of the Langer curb cut proposal, provided that stadium management and retail lot lessee also approved.
- 4. On March 10, 2005 the Manchester Planning Board approved the Langer Site Plan application. In the minutes of the meeting, the Langer's representative indicated in its presentation that "A second agreement with the owner of the retail pad [Petitioner] would allow the leasing of 50 spaces, which would not be available on game days but would be available on other evenings."
- 5. The notice for the March 10, 2005 meeting was defective, in that Petitioner did not receive notice.
- 6. On March 29, 2005, upon learning of the Langer curb-cut proposal for the first time, Petitioner wrote a letter to Robert S. MacKenzie, Manchester's Director of Planning and Community Development, expressing Petitioner's significant concern over the Langer proposal and making the following points:
 - (a) That Petitioner has been required by the City of Manchester, as part of the Riverfront Development, to construct a retail building on the Property;



- (b) That Petitioner agreed to build a retail building based on a site plan approved by the City of Manchester which allowed Petitioner to use all of the new spaces designated on said plan, in common with the Fisher Cats; and
- (c) That the seven parking spaces that Langer proposed to eliminate were, and are, critical to the development of a retail building and use on the Property.
- 7. On March 30, 2005, the day after Petitioner's letter, Mr. Thomas sent another letter to Mr. MacKenzie, enclosing both his letter of March 10, 2005 and Petitioner's letter of March 29, 2005. In his latest letter, Mr. Thomas indicated:

[Public Works'] approval of the proposed curb cut was based on the stadium management and the retail lot [lessees] agreeing to the elimination of the parking spaces on Line Drive [Way]. Our concern was that any loss of limited public parking in this area would have a major impact to their operations, and as a result should have their concurrence. It would appear that [Petitioner] is not supportive of the Langer proposal.

It should be kept in mind that there have been longstanding agreements with [Petitioner] and the development of the retail site. Anything your office can do to resolve the differences between [Petitioner] and the Langers will be appreciated.

- 8. Following the March 10, 2005 meeting, the planning board determined that another hearing was required due to the inadequate notice, and a re-hearing of the Langer Site Plan was scheduled for April 28, 2005.
- 9. In the interim, between Petitioner's letter dated March 29, 2005 and the rescheduled April 28, 2005 hearing, Petitioner and Langer met and discussed Petitioner's opposition to the Langer Site Plan, and significant concern over the loss of the seven parking spaces from an already limited supply of public parking in the area.
- 10. After discussion, Petitioner through his purchaser and Langer orally agreed that Langer would negotiate and execute a twenty (20) year, long-term lease with Petitioner's Buyer for Petitioner's Buyer's use of the Langer parking lot, Langer understanding that: (a) convenient

public parking was crucial to the success of the proposed retail building and use on the Property; and (b) securing a long-term parking lease was an essential component of the financing for the developer proposing to construct the retail building and use. In express reliance upon this agreement with Langer, Petitioner assented to the Langer Site Plan which would result in the elimination of seven critical parking spaces.

- 11. Without an agreement on a long-term lease between Langer and Petitioner's Buyer, Petitioner would not have assented to the Site Plan, and would have vigorously contested the Langer Site Plan at the planning board and beyond.
- 12. On April 26, 2005, in furtherance of Petitioner's end of the bargain, Petitioner submitted a letter to Mr. MacKenzie, indicating that Petitioner had no further objection to the Langer proposal.
- 13. At the April 28, 2005 planning board hearing, the Langer's representative presented the Site Plan again, noting that "approval had been received from [Petitioner] for the curb cut". Based in part on this approval, the planning board approved the Langer Site Plan that same evening.
- Langer, having received what it needed from Petitioner in the form of its assent to the Site Plan, and having further received the planning board's subsequent approval of same,

 Langer is refusing to live up to its end of the bargain with Petitioner's Buyer and has reneged on the previous agreement with Petitioner's Buyer.
- 15. Specifically, after extensive discussions, Langer now refuses to enter into any lease agreement with Petitioner in excess of five (5) years. This falls far short of the twenty year lease agreed upon between the Petitioner's Buyer and Langer, and far short of what the retail developer requires to secure financing for this vital component of the Riverfront Development.

- 16. Langer's refusal to deal in good faith with Petitioner amounts to a breach of an oral contract to the detriment of the Petitioner, in that the Petitioner agreed to assent to the Langer Site Plan solely due to the expectation of a twenty year lease. Langer was, and continues to be, aware that a twenty year lease was critical to the retail development.
- 17. Further, Langer's refusal to deal in good faith undermines the Site Plan approval granted by the planning board, in that said approval was clearly and unmistakably premised upon the efficacy of satisfactory parking lease agreements between Langer and the retail developer of the Property.
- 18. The City of Manchester has an important stake in this debate and must be heard, as it has taken the lead in the Riverfront Development, and has identified the retail component as a vital piece of the Riverfront equation. The Langer's refusal to deal in good faith imminently threatens the viability and long-term prospects of the Riverfront Development retail component, a result that the City cannot idly allow to occur.
- 19. The Petitioner is contemporaneously filing the Petition with the planning board, and seeking the same relief as set forth hereinbelow.

WHEREFORE, the Petitioner hereby revokes the consent it granted to the Langer Site Plan. Further, the Petitioner respectfully requests that the Board of Mayor and Aldermen:

- (A) Schedule a special public hearing at the earliest possible time to consider this issue; and
- (B) Revoke the prior approved Site Plan; and
- (C) Grant such other and further relief as may be just and necessary.

Dated this _____ day of August, 2005.

Respectfully submitted,

MANCHESTER DOWNTOWN VISIONS, LLC

Frank Catapano, Its duly authorized Montpor

56 Main Street

Salem, NH 03079



ATTORNEY GENERAL DEPARTMENT OF JUSTICE

33 CAPITOL STREET CONCORD, NEW HAMPSHIRE 03301-6397

KELLY A. AYOTTE ATTORNEY GENERAL



MICHAEL A. DELANEY DEPUTY ATTORNEY GENERAL

August 24, 2005

VIA FACSIMILE AND US MAIL (fax 624-6481)

Leo Bernier, City Clerk
City of Manchester
One City Hall Plaza
Manchester, New Hampshire 03101

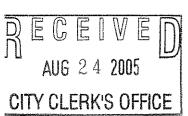
Re: Proposed Charter Amendments

Dear Clerk Bernier:

The Secretary of State and the Attorney General's Office, pursuant to RSA 49-B:5-a, make the following objection and comments in response to the City of Manchester's proposed charter amendment on incompatibility of office. This communication is a response to your letter dated August 9, 2005, received by the Attorney General on August 10, 2005.

We are required to "review the proposed . . . charter revision . . . to insure that it is consistent with the general laws of this state." RSA 49-B:5-a. Our review is limited to assessing whether the proposed change if adopted would bring the charter into clear conflict with specific provisions in state law or specific holdings of the Supreme Court. We understand our role as one of providing assistance to the City in conforming the local options it desires to implement with the restrictions set forth in State law. In this spirit we will also comment on proposed amendments when their meaning is, in view of pertinent state law, ambiguous or uncertain. RSA Chapter 49-B guides our analysis.

It is the purpose of this chapter to implement the home rule powers recognized by article 39, part first, of the constitution of the state of New Hampshire. To that end, the general court hereby provides a vehicle whereby a municipality may adopt a form of government that best addresses local needs. At the same time, however, the general court recognizes a need to require uniform procedures and practices when there is a corresponding state interest. Therefore, this chapter is intended



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City of Manchester Charter Amendments – Objection August 24, 2005 Page 2 of 6



only to provide a procedural framework by which a city or town may amend its actual form of government. Nothing in this chapter shall be construed to create any power in, or confer any power upon, any city or town beyond that necessary to carry out the amendment of a charter or form of government as set forth in this chapter. The general laws of this state shall remain in full force and effect, and they shall be construed to be consistent with this chapter to the greatest extent possible in the effectuation of this chapter's stated purpose. Accordingly, this chapter shall be strictly interpreted to allow towns and cities to adopt, amend, or revise a municipal charter relative to their form of government so long as the resulting charter is neither in conflict with nor inconsistent with the general laws or the constitution of this state.

RSA 49-B:1, Purpose and Intent (emphasis added). We will therefore object only when a proposal is clearly in conflict with or clearly inconsistent with the general law or Constitution of the State. We will rely on both statutes and case law to reach our conclusions. Accordingly, our analysis should not be misconstrued as taking a position on the underlying public policy questions presented where the proposal is, in our view, in conflict with or inconsistent with a statute. Even where we would not oppose a statutory revision that would allow the proposed charter provision, we understand RSA Chapter 49-B to impose on our Offices a duty to state an objection in each instance where we observe a clear conflict or clear inconsistency with current law.

Manchester is considering two proposed charter amendments. We will address the Limitation on Budget Increases proposal in a separate communication.

Incompatibility of Office

§8.05 Incompatibility of Office.

- (a) No elected city official shall be employed by the city or by the school district until completion of the term for which the official was elected.
- (b) Acceptance of an elected office by a city or by a school district employee shall result in termination of employment.

Our review is limited to the changes proposed by a charter revision or amendment. Our comments may touch on other pre-existing charter provisions, however, we have not conducted a comprehensive analysis of the charter provisions which are not the subject of revisions or amendment. The absence of a comment on pre-existing charter provisions which are not the subject of a proposed revision or amendment should not be construed as either Office taking the position that those provisions are in conformance with state law.

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City of Manchester Charter Amendments – Objection August 24, 2005 Page 3 of 6

The City proposes an amendment, §8.05 which would:

1. Prohibit a person from simultaneously serving as an elected city official and an employee of the city.

2. Prohibit a person from simultaneously serving as an elected city official and an

employee of the school district.

3. Prohibit the city from offering employment to a person who has held an elected city office until the completion of the term for which the person was elected, even if that person resigns the elected office before completion of the term.

4. Prohibit the school district from offering employment to a person who has held an elected city office until the completion of the term for which the person was elected, even if that person resigns the elected office before completion of the term.

5. Treat the acceptance of any elected office by a city employee as requiring termination of

that individual's employment by the city.

6. Treat the acceptance of any elected office by a school district employee as requiring termination of that individual's employment by the school district.

As we understand the proposal it would prohibit a person from serving as both an elected official of the school district and an employee of the school district.

Furthermore, as we understand the proposal, subsection (a) is limited to elected <u>city</u> offices while subsection (b) applies to <u>all</u> elected offices. For example a city or school district employee accepting the office of State Representative or for a city employee who lives outside the city the office of Selectman or elected Planning Board member would then be terminated from his or her city or school district employment.

Finally, as we understand the proposed charter amendment, unlike the corresponding state statute cited and discussed below, the charter amendment makes no distinction between full and part-time or temporary employment – it is an absolute prohibition of employment for the covered individuals.

RSA 49-C:33 explicitly provides that "[c]ity charters may include provisions relating to . . . (c) Conflicts of interest so long as any provisions adopted are at least as stringent as the state general laws relative to conflicts of interest."

The pertinent state general law is:

No publicly elected official of a city, except school district officers, who as such official is authorized to appropriate or expend public funds shall be employed during the term for which he is elected by any department, board or commission of the city in any other capacity or in any other position of employment by the city where compensation is allowed, except as justice or elerk of the municipal court, or call firemen, or special police

City of Manchester Charter Amendments – Objection August 24, 2005 Page 4 of 6



officers; provided that in case any city charter, at the time this section takes effect, provides specifically that certain elected officials may be employed in other specified employments, or positions, contrary to the provisions of this section, the provisions of said charter shall prevail. Upon the acceptance of any such prohibited employment by a publicly elected official, as prohibited herein, the elective office shall forthwith become vacant and shall be filled as provided by law. The provisions of this section shall not affect the rights of cities or towns to make such consolidation of official functions as may have been heretofore authorized by statute.

RSA 48:1, Disqualification for Employment by City (emphasis added). Therefore, as to city employees and city offices, we pose no objection to this proposed amendment.

We raise serious concern with the charter amendment to the extent that it would prevent a city or school district employee from serving as a State Representative for Manchester, or for Manchester employees who live in other municipalities, a Selectman, or Planning Board member or in any other elected municipal office. In the context of town offices the qualifications for which are established by statute, the Supreme Court has held that "[R]egulating qualifications for office is not the type of local concern included within" the authority to enact charters. Town of Hooksett v. Baines, 148 N.H. 625, 630 (2002).

The legislature has created a comprehensive statutory scheme governing elections and has defined the scope of qualifications necessary to obtain elected office. Although the right to elected office is not absolute, see Paey v. Rodrigue, 119 N.H. 186, 189, 400 A.2d 51 (1979), this statutory scheme is designed to make elective office as accessible as possible to the citizens of New Hampshire by imposing a minimum number of qualifications, thereby furthering the objectives of our State Constitution. To allow a municipality to impose term limits would be repugnant to the implied intent of the statutory scheme. We hold, therefore, that the State has created a comprehensive statutory scheme governing the field of elections, including qualifications for office, and has neither expressly nor impliedly granted towns the authority to impose term limits. As a result, the town's term limits provision is preempted by statutory law and Part I, Article 11 of the State Constitution.

Id. at 631. The standard that we apply for stating an objection and thereby preventing the charter amendment from being placed on the ballot is a clear conflict with the general laws of the State. RSA 49-B:5-a ("If the secretary of state, the attorney general, or the commissioner of the department of revenue administration do not approve, the proposed charter or charter amendment questions shall not be placed on the municipal ballot.") The general law of the state, in light of



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the Court's holding in *Baines* and its progeny, is in conflict with the proposed charter amendment to the extent that it in effect creates a qualification for public office, state and local including municipalities other than Manchester, that the person can not hold the office if they are also an employee of the City of Manchester. For this reason we object. The proposed charter amendment as written may not be placed on the ballot. A revised provision which applies only to city offices would clearly resolve this conflict. However, in light of other concerns discussed below, the City may want to consider other revisions to the proposed charter provision.

We note that RSA 48:1 explicitly excepts from the statutory prohibition on employment of elected city officials, a justice or clerk of the municipal court, call fire fighters, or special police officers. RSA 49-C:33, however, grants authority to the city to enact more stringent conflict of interest prohibition. Therefore, while generally an explicit exception in a state statute would be controlling and a proposed charter provision which does not recognize that exception would create a conflict, in our view no clear conflict exists here. We also note that RSA 49-C:33 became effective in 1991, while RSA 48:1 was enacted in 1941 and that the effective date of the most recent amendment was in 1959 when the special police officer and call fireman exceptions were added. A "specific, more recently-enacted statute controls over general, earlier-enacted statute." Soraghan v. Mt. Cranmore Ski Resort, Inc., slip op. at ___(N.H. June 24, 2005) (citing Petition of Public Serv. Co. of N.H., 130 N.H. 265, 283, (1988)) See also: Board of Selectmen v. Planning Bd., 118 N.H. 150, 152 (1978) (when a conflict exists between two statutes, the later statute will control). Therefore, we conclude that as to the three classes of employees excluded in RSA 48:1 from the prohibition on simultaneous office holding and city employment, there is no clear conflict or clear inconsistency between the proposed charter amendment and the general law of the State.

Because we have objected to the proposed charter amendment on other grounds we do not now reach a conclusion as to whether we would also object for the following reasons. We note the following concerns, which the City may choose to address before submitting a revised charter amendment for our review. The Supreme Court has recently held when the city sought, through a charter amendment, to transform its school district into a city department, that the city was acting "outside the scope of authority granted to it by RSA chapter 49-B." City of Manchester School District & a. v. City of Manchester, Slip op. at 5 (N.H. March 15, 2004). "[T]here is a comprehensive statutory scheme that evidences a legislative intent not to permit municipalities to exercise broad control over the establishment, powers and functioning of school districts." Id. To the extent that the proposed charter amendment is merely a restriction on obtaining or holding city employment, prohibiting employing a person who holds or assumes a position as an elected city or school district official, such a provision is not in clear conflict with the general laws of the state. It is just a regulation of city employment asserting that it would be a conflict of interest to be a city employee and to be an elected school district official in a school district funded by the same taxpayers as the city. To the extent that the proposed charter amendment seeks to control the powers and functioning of the school district by restricting who can hold school district elective office (in essence the charter provision creates an additional qualification for school district office - the person cannot be a Manchester City employee) or who can be a school district employee (accepting any elective office, State or local, would

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prevent the school district from continuing to employ the office holder), it would appear to be in conflict with the reasoning applied by the Supreme Court in City of Manchester School District.

Conclusion

The Attorney General and Secretary of State, pursuant to the duties imposed on us by RSA Chapter 49-B, object to the proposed charter amendment as currently worded. While we have endeavored to provide legal authority and a clear explanation for our comments, we will be happy to answer any questions you may have and remain willing to discuss our legal analysis with the City or its legal counsel. Please feel free to contact Senior Assistant Attorney General Bud Fitch if there are any further questions or concerns.

Sincerely yours,

William M. Gardner Secretary of State.

For the Attorney General's Office

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